



**CITY OF PENDLETON COMMUNITY DEVELOPMENT DEPARTMENT**  
**Subdivision Staff Report to Planning Commission**

**File No.:** SUB22-02  
**Prepared:** May 18, 2022  
**Hearing Date:** May 26/June 9/June 30, 2022  
**Prepared by:** Julie Chase, Associate Planning

**Applicant(s)/** Derek Barfuss  
 Blue Ridge Construction  
 43514 Colonial Lane  
 Pendleton, OR 97801

**Owner(s):** Derek Barfuss  
 Blue Ridge Construction  
 43514 Colonial Lane  
 Pendleton, OR 97801

**Site Location:** SW Runnion Avenue & Tutuilla Rd  
**Description:** Tax Lot 00162, Map 2N-32-1500

**Zoning:** R-1, Low Density Residential

**Attachments:** Application and supplemental materials

**SUMMARY:**

The proposal is to subdivide approximately 21.2 acres into 52 residential lots with new public rights-of-way, east of the Sunridge Middle School. The property is within city limits. There is no flood hazard zone affecting this land. The proposal is to construct a road off SW Tutuilla Road heading east with a temporary cul-de-sac, for future expansion, at the east property line and a short cul-de-sac against the east side of the Sunridge Middle School track with a north-south running cul-de-sac connecting this development to lands along the south creek bed of Patawa Creek and towards SW Runnion Avenue, top of the hill. The property is within 300 feet of a public sewer line; however, it would only provide service if pumped. The public sewer line does not extend along SW Tutuilla Road, but the City is designing sewer connection across Tutuilla Creek near SW Nye Avenue, so sewer connection via gravity would be possible down Tutuilla Road and beyond this proposal. This development will require: city standard rights-of-way, installation of public utilities, two pedestrian pathways, storm water detention, and looped services. The proposed land division demonstrates lots from 8000 square feet to 28,200 square feet, with the larger lots absorbing 3.11 acres of slope grade greater than 20%. The Density calculation for this area is a minimum of 50 dwelling units with a maximum of 117 dwelling units; single-family units are expected north of Runnion and duplexes between Runnion and Tutuilla. The zone allows for the construction of Middle Housing which includes Duplexes, Tri-Plexes, and Quad-Plexes.



**APPLICABLE CRITERIA, STANDARDS, AND PROCEDURES:**

**Unified Development Code No. 3845**

**Article III. Low Density Residential Zone Section 3.02, 3.09**

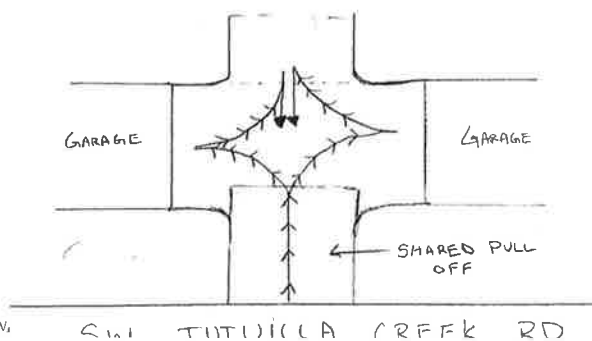
**Article IX. Development Design Standards for Land Division Section 9.01, 9.02, 9.05, 9.10-9.21**

**Article X. Land Divisions**

**Article XIII. Land Use Application Procedure Section 13.04**

**STAFF RECOMMENDED CONDITIONS:**

1. Although lot sizes are limited to less than twice the minimum lot size (R-1 = 12,000sqft), this development is proposed with an overall density standard that meets Code. A slope analysis by Kenny Land Surveying shows that 3.11 acres are encumbered with 20% or greater slope grade. Eleven (11) lots are impacted and demonstrate a square footage greater than 12,000 square feet. Density calculation was reduced in respect of the slope analysis. Non-Discretionary Condition #2 limiting lot sizes may not apply provided the density standard is met and there is justifiable reason (20%+ slope grade) to create large lots.
2. Applicant shall consult with the Fire Chief to determine if "No Parking" signage is needed within each turn-around (hammerhead, cul-de-sac, eyebrows, offset, or "Y"). A turn-around shall be installed at the end of any dead-end that is longer than 150 feet. If the street is intended to extend in the future, then the turn-around may be temporary.
3. Temporary dead-end street shall be barricaded per city standards. This includes if the project is constructed in phases.
4. Applicant shall meet with the Postmaster to determine where the cluster box units should be placed and if and how a turnout for the mail vehicle should be configured within the proposed public rights-of-way. The plan shall be reviewed and approved by the City Engineer. This shall be done as each Phase is constructed. The applicant shall install all the cluster boxes necessary for all units in each Phase. The necessary CBU's shall be placed in the area(s) approved for the cluster boxes before the first dwelling unit for that specific Phase or area is proposed. This condition shall be binding to future phases and future owners as well.
5. Preliminary design of all infrastructure and access roadways shall be performed for all phases to show adequate utility service and access to all lots prior to final design any phases. Final design of the infrastructure, grading and drainage, and all public/private roadways shall meet the Unified Development Code and shall be approved by the City Engineer prior to construction.
6. The Commission may find that the requirement for street trees is not possible at the time of dwelling construction. Therefore, the Commission may choose to require a Development Agreement for the installation of street trees in accordance to Section 9.10 of the Unified Development Code. If the Commission chooses this option, then Non-Discretionary Condition #11 should be omitted. Owner shall sign Development Agreement prior to sale of any lot.
7. Public water and sewer lines are shown on the Tentative Plat. The street sections should show the typical 10-foot public utility easement along the frontages of all lots. This PUE shall be shown on the Final Plat as this PUE is used for power, cable/fiber, phone, and natural gas. Staff recommends establishing this 10-foot PUE for such utilities. All private utilities shall be installed per Unified Development Code. Conceptual and final designs shall be submitted to the City Engineer for approval prior to construction. As-built drawings of all installed utilities shall be submitted to the City Community Development Department after construction.
8. Developer shall work with City Engineer to design proper storm water detention for all phases, and it shall take into consideration the phased land division. Storm water utilities and detention shall meet Unified Development Code and Storm Water Master Plan.
9. The street names shall be determined by the City, utilizing the system for historic names and the accepted city street naming policy.
10. Although block perimeters in residential districts are limited to a 2,000-foot block perimeter, this development is proposed on land near the eastern boundary of Pendleton's Urban Growth/City Limits. Sunridge Middle School occupies 20 acres south of the subject property. Full build-out of the land north of the subject property has not occurred and the site has severe topographic grades and sight-distance hindrances. The combination of these factors limits the subject property's development to meet block length standards. Connectivity to SW Tutuilla Road is proposed with potential development north and east of the proposal. Potential for meeting block length standards exists with the SW Tutuilla connectivity. Construction of road connection to SW Runnion is not recommended due to grades and sight-distance constraints. Non-Discretionary Condition #6 should be removed with acceptance of this condition.
11. Corner lots off SW Tutuilla Rd and unnamed new public right-of-way (lots 9 & 52) and those lots that will have frontage on both the unnamed road and SW Runnion Avenue (lots 40-45; 50-51) shall derive their access from the lower traffic road rather than SW Tutuilla Road, which is a collector road, or SW

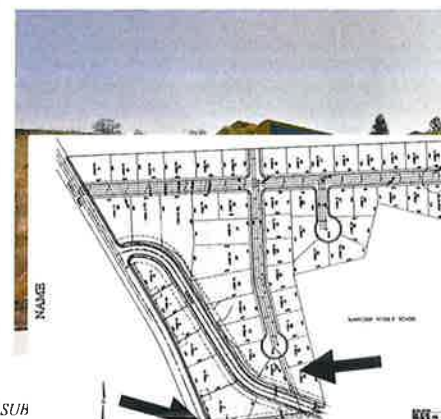


Runnion Avenue. A note shall be made on the Final Plat that states that these lots shall be constructed with access off the new unnamed street. Staff is asking for this note so that future builders are aware and can choose a house plan suitable to meet this requirement.

12. Because backing out onto a collector road is not permitted, a note shall be made on the Final Plat that states that those lots that will access off SW Tutuilla Road shall be constructed with paved hammerhead/circular driveways (shared hammerheads are allowed) so that vehicles will not back out onto SW Tutuilla Road. Staff is asking for this note so that future builders are aware and can choose a house plan suitable to meet this requirement.
13. The public water line from SW Runnion Avenue shall be placed in a recorded easement and shall be 20-foot wide. This easement shall operate as the driveway/access to Lot 40, a pedestrian pathway, and emergency access. The easement shall be paved for fire truck usage.
14. Lot 40 shall gain its access from the cul-de-sac. Lot 40's egress onto the 20-foot easement shall be designed such that the drivers sight line will allow for pedestrians to be seen on the paved surface coming from SW Runnion Avenue and the cul-de-sac. This may result in a circular driveway, a hammerhead, or additional pavement alongside the easement to allow facing-front egress. Staff is asking for these notes on the final so that future builders are aware and can choose a house plan suitable to meet this requirement.
15. The 20-foot easement, where it meets with SW Runnion Avenue, shall be designed such that private vehicles will be restricted from accessing at this connection. This may involve "Emergency-Only Access" signage, bollards, chains, or some other mechanism that restricts vehicles but permits pedestrians and bicycles.
16. If the applicant fails to construct all phases of the proposed subdivision, future plats shall include connectivity to the lands east of this proposal.

#### NON-DISCRETIONARY CONDITIONS OF APPROVAL

1. Density standard for this development shall not be less than 1 dwelling unit per acre nor more than 9 dwelling units per acre (minimum 50 units, maximum 117 units) within the R-1, Low Density Residential zone. UDC 3.09.1 Table 3.1
2. **(See Staff Recommended Condition # 1)** Lot sizes shall not exceed twice the minimum lot size for any one given lot as determined by slope/grade, a minimum of 6,000 square feet and a maximum of 12,000 square feet within the R-1, Low Density Residential zone. UDC 3.09.2, 3.09.3
3. All lots to be considered buildable must abut, have frontage on, a public right-of-way and have access via a public right-of-way or recognized public way. All lots in any land division must have frontage on a public right-of-way and have access via an existing public right-of-way or recognized public way on the official map or Comprehensive Plan or:
  - a) An existing State Highway, County Road, or City public right-of-way;
  - b) A street shown upon a plat or map approved by the City Planning Commission and recorded in the Umatilla County Clerk's office. All access into each lot shall be improved to city standards. UDC 3.09.7/9.05.1
4. Development on the subject lots shall respect the setback standards as established in Residential zones. UDC 3.09.9 Table 3.1
5. Any proposed lot for a neighborhood commercial use shall be indicated on the Final Plat, and such development shall be subject to Section 3.09.12. UDC 3.09.12
6. **(See Staff Recommended Condition # 10)** Block lengths shall not exceed the 2,000-foot block perimeters and shall be a minimum of 100-foot block lengths and maximum of 800 block lengths. UDC 9.01
7. Lot or parcel arrangement shall consider topography in its layout such that each lot will retain a buildable envelope. Street layout shall be at right angles to parcel lines except where topography hampers the buildable envelope, provided that the overall density of the subdivision meets the standards of its zone. UDC 9.02
8. Access for the newly partitioned lots shall be from a city standard street and shall be from the lower classification streets. Vehicular



- access shall be the maximum practical distance from the intersection. UDC 9.05.1, 9.05.4, 9.05.5
9. Site Circulation Plan showing expected traffic, its pattern/flow, and conflicts with traffic on adjacent roads shall be reviewed and approved by the City Engineer. Plan shall also demonstrate bicycle and pedestrian traffic connections. UDC 9.05.6
  10. Residential driveway aprons shall not exceed 22 feet in width without approval of a variance. All driveway aprons shall meet city standards for driveways. UDC 9.05.10
  11. **(See Staff Recommended Condition # 6)** Street trees shall be planted along the street frontage of all lots at a ratio of 1 street tree per 70 feet of frontage. The trees shall have a diameter no less than 2 inches measured 12 inches above the ground level. Applicant shall consult with the City Parks Director to determine best shade tree given desired placement on the lot. UDC 9.10
  12. Design of all dedicated rights-of-way shall meet the approval of the City Engineer. Proposed right-of-way off SW Runnion Avenue shall be constructed to major residential road standards, and the other proposed rights-of-way may be constructed to minor residential road standards. This approval includes but is not limited to drainage systems, utilities, connectivity, width, and pedestrian amenities. UDC 9.11, 9.12
  13. Joint mail boxes shall be installed at a place approved by the City Engineer and US Postmaster to serve this development. UDC 9.13.1
  14. Any detention ponds and storm water facilities serving or to serve this area for storm water control shall be noted on the final plat. If an easement is required for access to storm drainage improvements, then the easement shall be 20-foot wide. UDC 9.14, 9.15
  15. Applicant shall install a 10-foot wide impervious surfaced pedestrian pathway from SW Tutuilla Road to the top of SW Runnion Avenue, within the 30-foot water-sewer/utility easement as identified in the Safe-Routes-to-School study. School children have historically utilized a shortcut from SW Tutuilla to Sunridge Middle School near the proposed utility easement. School children created the walking path to reduce the walking distance, but it has also reduced the children's exposure to traffic. A secondary 20-foot wide easement with a minimum 14-foot wide paved pedestrian pathway from the southern cul-de-sac to SW Runnion Avenue, over the public water line, shall also be installed per the Safe-Route-to-School study for the proposed subdivision. UDC 9.09
  16. Applicant/property owner shall provide information regarding the location of any and all existing utilities with the final plat submittal. If city standard utilities have not been installed, the utilities shall be installed per city standards and all utilities shall be underground. Applicant shall extend all utilities to the northern and eastern terminus of the property for future expansion (development). If an easement is required for access to public utility improvements, then the easement shall be 20-foot wide. UDC 9.16-9.20
  17. An agreement between the City and developer shall be recorded with the final plat as per Section 9.21.5 for improvements and repairs. UDC 9.21.5
  18. Applicant shall observe all the requirements outlined in Section 10.06, Following Tentative Plat Approval. UDC 10.06
  19. The Final Plat submittal shall include and meet all the requirements outlined in Section 10.07, Review of Final Plat. UDC 10.07
  20. Failure to file a complete application for a Final Plat within the two year approval period, including submittal of all engineering Construction Documents, fees, required Consent forms and bonds or other assurances, will cause the tentative approval to expire. UDC 10.06

#### **APPROVAL RESTRICTIONS AND BURDEN OF PROOF**

1. **Limitations:** Failure to file a complete application for a Final Plat within two years of approval (7/2024), including submittal of all engineering Construction Documents, fees, required Consent forms and bonds or other assurances, will cause the tentative approval to expire. UDC 10.06
2. The approval granted herein is limited to those items specifically addressed in this report. Approval of this request does not grant nor imply approval for any other land use action (variance, conditional use, etc.). Issues including, but not limited to (approval of) such non-discretionary matters as ROW improvements, floodplain development standards, impervious surface/storm water runoff, Development Permit(s), Building Permits and/or construction, are likewise not addressed.
3. **Burden of Proof:** The applicant bears the burden of proof for all approvals. Should an appeal arise, the applicant shall be responsible for all costs pursuant to the standards and limitations contained in §13.6 of the UDC.
4. **Validity Timeline:** Approval of a land use action shall be void after two years pursuant to the standards contained in §15.4 of the UDC. Pursuant to §15.5 of the UDC, the Planning Director may extend a permit for one additional period of two (2) years upon written request.



# **FINAL DECISION: PAGES 10-11**

## **1. APPLICABLE CRITERIA AND STANDARDS:**

The specific criteria applicable to this request are contained in Article III of the Pendleton Unified Development Code (UDC; Ord. No. 3845), which contains the standards for residential zones. The Design Standards for Land Divisions are contained in Article 9. The criteria for approval of a Land Division are contained in Article 10; the procedure for a Type III land use action is contained in Article 13, Section 13.04. The full text of the UDC is available on the Planning Department page of the City of Pendleton web site. Additional criteria and standards contained in Oregon Revised Statutes (ORS), and the most current State Building or Specialty code may supersede local code.

## **2. LOCATION:**

### **ZONING MAP**

The land size consists of approximately 21.2 acres. The land is vacant and is inside the Pendleton Urban Growth Boundary, zoned for residential development. The applicant has submitted a survey that demonstrates 3.11 acres exceed 20% slope; therefore, the developable land is reduced to 17.25 acres. The applicant will develop the subdivision with single-family dwellings and middle housing. The proposed subdivision demonstrates frontage along dedicated public rights-of-way. Three minor residential streets are anticipated with the proposed layout. The proposed 52 lots vary in size from 8,000 square feet to 28,200 square feet, with an average lot size of 11,964 square feet, which is less than twice the minimum lot size. The density calculation is 52 single-family or middle housing lots on the full 21.2 acres. Depending upon the slope of the land, the density calculation is estimated at 47 units for land with a less than 10% slope to 20% and 3 units for land with slopes over 20%. Utilities do not currently extend into the proposed area for residential development. The Tentative Plat does not indicate how drainage from the land will flow or how storm water will be handled. The neighborhood is comprised of single-family dwellings, Middle Housing, public park land, and the Sunridge Middle School.

### **FINDINGS:**

1. The Zone Map shows this area to be within the R-1 (Low Density Residential) zone. Residential development is allowed in the zone.
2. The proposal is to subdivide existing parcel into 52 buildable lots, all with dedication of public rights-of-way. UDC 9.05.1
3. The parent parcel is vacant.
4. The parent parcel does not currently have access through the proposed area. This access will be constructed as part of the subdivision. An as-yet unnamed road and SW 3<sup>rd</sup>/4<sup>th</sup>/5<sup>th</sup> are proposed as public rights-of-way within this subdivision.

**CONCLUSION: Criteria are met.**

## **3. ZONING:**

### **RESIDENTIAL ZONES – ARTICLE III**

- The subject properties are within residential zones.
- R-1, Low Density Residential has a density ratio of 1 dwelling unit per acre minimum and up to nine (9) units per acre maximum. The 21.2-acre parcel could have a minimum number of 50 buildable lots to meet density rate of 1 (R-1) dwelling units per acre or a maximum of 129 buildable lots (9 units/acre in R-1), with consideration of topography. The



Tentative Plat demonstrates 52 buildable lots, which could produce between 52 dwelling units through single-family development and 208 dwelling units through quadplex development.

- Minimum lot size in the R-1, Low Density Residential zone is 6,000 square feet if the slope grade is 10% or less, 7,000 square feet if the slope grade is between 10% and 20%, and 9,000 square feet for any lot with a slope grade greater than 20%. The Tentative Plat demonstrates a minimum lot size of 8,000 square feet and a maximum lot size of 28,200 square feet.
- Yards are required and established through minimum setbacks. Setback requirements are: Front - 15 feet for dwelling unit, 20 feet for a garage; Side & Rear – 5 feet for dwelling and attached accessory structure; Side & Rear – 3 feet for unattached accessory structure; and Side – 10 feet for the side street on a corner lot.
- Vision Clearance standards apply in all zones.
- The Maximum Lot Coverage regulation for R-1, Low Density, residential zones is 35%.
- The height limit for structures within the R-1, Low Density zone is 30 feet or 2 stories. Exception is made for accessory features/spires/towers; the height limit does not apply.
- Fences are limited to six (6') feet except in the front yard and where Vision Clearance applies.



#### FINDINGS:

5. The submitted Tentative Plat demonstrates a density standard within the standard criterion for density because it shows 52 buildable lots with no information restricting middle housing.
6. The Tentative Plat indicates the average slope grade. The topography of the parent parcel demonstrates extensive slope (over 20%) surrounding SW Runnion Avenue. A note on the Tentative Plat states, "Total area for zones 2-5 (slopes 20% or greater) 135,520.2 sf (3.11 acres)." The Tentative Plat shows lots with a minimum lot size of 8,000 square feet and a maximum lot size of 28,200 square feet. The lot size criterion is not met because lots are greater than twice the minimum size. However, the Commission may approve a greater lot size if the land division is within density standards or extenuating circumstances justify a greater lot size. 52 lots without restricting Middle Housing is within the density standard.
7. Development of the newly created parcels is reviewed at the Administration level.

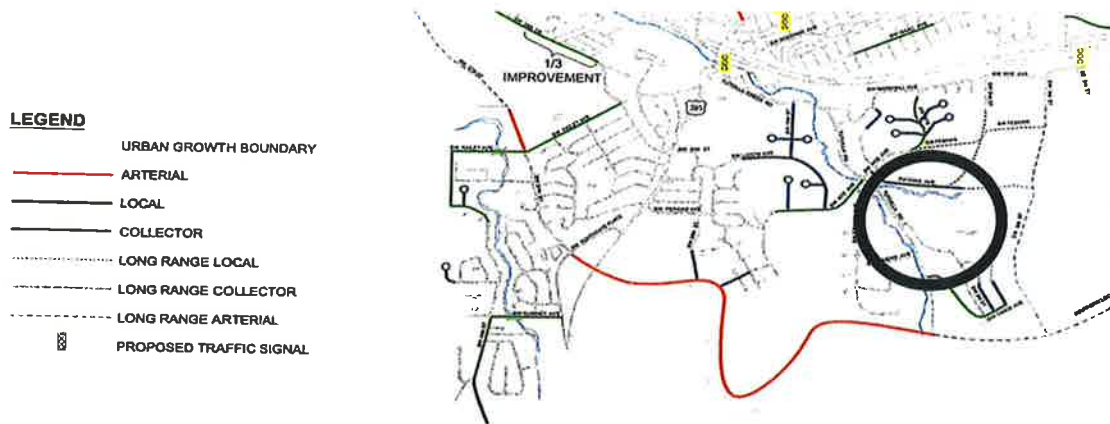
**CONCLUSION: Criteria are met. Density standard is met.**

#### **4. ARTICLE IX. DESIGN STANDARDS FOR LAND DIVISIONS**

- Reconfiguring of lots need to follow a well-connected layout that provides street connections that are easily traveled by those within the neighborhood, the police and fire departments, and for utilities. Complex street patterns discourage pedestrian use, confuse drivers, increase utility costs, and create life-threatening routes with emergency response.
- Topography and surrounding development may create scenarios that require alteration of the typical grid-

pattern block layout. To allow for such scenarios, the block length in Residential Districts has a block length of 100 to 800 feet, with the perimeter not to exceed 2,000 feet. Parcel arrangement must allow for frontage on all parcels with provisions for reasonable driveway access and buildable area.

- It is encouraged to create parcels that have potential access off local streets rather than collector or arterial streets. Permission for a driveway requires street improvement at the time or a condition of consent to a Local Improvement District Agreement.
- Access onto a State Highway requires approval from the Oregon Department of Transportation.
- Street trees are required to be planted at a rate of two (2) street trees per 70 feet of linear frontage.
- Utility system extensions shall consider future development beyond the proposed land division. Utilities extended into new land division shall be installed underground.



#### FINDINGS:

- The proposed land division demonstrates dedicated public rights-of-way and 52 residential lots. The layout branches off from SW Tutuilla Road with local streets connecting the lands north and west of the Sunridge Middle School with this proposal, adjusting roads and lots to the topography of the land. To preserve future development, the Tentative Plat shows a short road extension to the north.
- The Tentative Plat demonstrates no block length because road connectivity will not be completed until lands north and east are developed. The proposal is not proposed as phased development and does not show a full block layout. The Tentative Plat was submitted by an engineer who drew rights-of-way and lots that exploit the topography. It demonstrates where rights-of-way can be constructed with lots having a flatter building pad area.
- Block lengths may be possible when a land size can be master planned for maximum development. This proposal is 21.2 acres, not large enough for master planning. The land rests against the Sunridge Middle School, which utilizes 20 acres and limits the potential road connectivity. Full build-out of the land north of the subject property has not occurred and the site has severe topographic grades and sight-distance hindrances. The combination of these factors limits the subject property's development to meet block length standards.
- The Tentative Plat provides connectivity with SW Tutuilla Road with most lots fronting new local roads. The main road, unnamed, is classified as a local road, and will connect with SW 3<sup>rd</sup>, 4<sup>th</sup> or 5<sup>th</sup> Street, in the proposal. Driveways may be configured to back out onto the new platted public rights-of-way.
- The Tentative Plat includes the construction of public rights-of-way. When the 52 lots are developed, the driveways will need to be paved for the first 20-feet to preserve the paved rights-of-way.
- Development of the proposed lots will require a minimum of two (2) street trees for each frontage of each buildable lot. Street trees are not typically installed upon issuance of a Certificate of Occupancy; therefore, staff has proposed an optional condition for the Commission: a Development Agreement with the developer ensuring that street trees are planted.
- The proposed development will be served by city utilities, and those utilities will need to be installed underground as a condition of development because Code requires that all extensions of utilities for future development be placed underground. Code also requires the extension of public utilities to facilitate future development. The applicant/property owner shall be responsible for contacting all private utility agencies to establish all necessary utility connections for the individual parcels.



## **5. ARTICLE X. LAND DIVISIONS**

- The R-1, Low Density Residential, zone minimum lot sizes are 6,000 square feet if the slope grade is 10% or less, 7,000 square feet if the slope grade is between 10% and 20%, and 9,000 square feet for any lot with a slope grade greater than 20%.
- Land divisions must be designed to minimize the risk of flood damage by providing building lots, at a minimum, outside of the floodway and if possible outside the flood fringe.
- Creation of new lots requires extension of adequate utilities and those extensions should be designed to minimize contamination from same utilities during flooding.
- All land divisions shall have adequate surface drainage facilities.
- All land divisions require review of the existing natural vegetation, water courses, and structures to determine if any have a value to the community as a whole.
- Lands determined by the Planning Commission as unsuitable may not be divided. Unsuitable is determined by the lands impact from easements, drainage ways, steep grades, or adverse earth formations.
- Naming of a Land Division shall not be the same nor similar to any other Land Division name.
- A Pre-Application Conference is encouraged for Land Divisions prior to application submission.
- A tentative plat is necessary to review a land division application. The tentative plat is first approved, conditions placed, and all notes and conditions are reflected on the final plat.
- Developers, those persons dividing land, are required to meet all reasonable conditions established by the City for such land division. Tentative plats must show enough details to afford the City the ability to determine if they do or do not meet the criteria for land divisions. Criteria include general information, vicinity map, detail map, existing conditions, explanatory information, and any supplementary proposals. Once the tentative plat is reviewed for compliance and conditions placed, and the applicant is permitted to submit the final plat, it is sub sequentially reviewed and approved. Once approved, the final plat may be recorded. The applicant has two years to record the plat without forfeiture of the plat as presented.

### **FINDINGS:**

15. The Tentative Plat demonstrates 52 buildable lots within the Low-Density Residential zone. The lot size of most of the parcels exceeds the lot size prerequisite because the Tentative Plat demonstrates a minimum lot size of 8,000 square feet and a maximum lot size of 28,200 square feet, and the slope grade averages between >10% and 20%, with 3.11 acres over 20%.
16. The Land Division proposal minimizes the risk of flood damage because the proposed land division is not within a flood area.
17. Utilities extending beyond the Land Division will not be susceptible to contamination during a flood because the proposed land division is not within a flood area.
18. At the time of development, the City Engineer will review the grading of the site and the inclusion of storm sewer within the development, which will provide adequate surface drainage facilities because all new subdivision development requires engineering review prior to construction.
19. The parent parcels are suitable for division and suitable for development because the land is within the City Limits, it neighbors residential development, it will have connectivity with city streets, and has the capacity to connect to existing utilities.
20. The Tentative Plat name is not indicated on the Tentative Plat. The County Surveyor will determine if the chosen name has already been used for a land division.
21. A Pre-Application Conference occurred regarding this land division.
22. The applicant has applied for a land division with a Tentative Plat. The Tentative Plat has been prepared by a licensed engineer, ACH Engineering. Public sewer and water extensions are indicated on the Tentative Plat. New rights-of-way are indicated on the Tentative Plat.
23. The Tentative Plat indicates an average grade, and contours are shown on the shadow plat.

**CONCLUSION: A finding-and-conclusion by the Commission is necessary to approve this application.**



## **6. ARTICLE XIII. LAND USE APPLICATION PROCEDURE**

All applications shall be submitted with complete information as required by Ordinance. An applicant shall be informed of any missing information within 30 days of submission. Applications that can be reviewed administratively fall under 13.03 for notice, response timeline, final decision and appeal. Applications that include the dedication of right-of-way require Planning Commission approval.

**FINDINGS:** The applicant has submitted an application for a land division with a Tentative Plat. The Tentative Plat has been prepared by a licensed engineer, ACH Engineering. Staff cannot provide an administrative decision on subdivisions. The Tentative Plat includes lots greater than twice the minimum lot size. The Planning Commission must make the final decision on this application because it involves a subdivision.

**CONCLUSION: A Public Hearing is scheduled for June 30, 2022.**

## **7. ARTICLE XV. ADMINISTRATIVE PROVISIONS**

Development within the City is reviewed, approved, and conditions placed through the Ordinances governing the City. An approved application grants permission to the applicant. The permission is subject to a two-year time limit on action. One extension may be granted with an applicant's written request.

**FINDINGS:** The applicant has submitted an application for a land division with a Tentative Plat. Staff cannot provide an administrative decision. The Tentative Plat includes lots greater than twice the minimum lot size. The Planning Commission must make the final decision on this application because it involves a subdivision.

**CONCLUSION: A finding-and-conclusion by the Commission to to accept lots greater than twice the minimum lot size is necessary to approve this application. (See Summary Conclusions)**

## **8. TESTIMONY FROM OTHER CITY DEPARTMENTS AND AGENCIES**

**City Engineer:** Due to the site having some areas well over 20%, some lots are larger to include the undevelopable steep slopes in areas where it would be very difficult to construct homes or roadways. Land divisions with topographical challenges having slopes well over 20% push the development to have larger lots and are designed around the specific areas where roads can be placed. Emergency response vehicles and generally domestic vehicles are limited to travel roadways with 16% or less slope, the preference being 12% or less. These topographical challenges, which also affect sight distance, drive the development to have block lengths in excess of the 2,000-foot perimeter.

**Traffic Impact:** the subdivision will connect directly to an arterial, and because the anticipated density is nearer to the minimum (52 single-families vs. all quad-plexes/208 units), there is no anticipation of a traffic impact that triggers a concern. The TSP has no issues identified regarding the future capacity of SW Tutuilla Road. However, further study and construction may be required for a turn pocket off SW Tutuilla Road. The median and turn pocket for SW Runnion Avenue can be modified to create a turn pocket for entrance into this subdivision.

**Fire Chief:** No comment was supplied.

**SUMMARY FINDINGS:**

- The Zone Map shows this area to be within the R-1 (Low Density Residential) zone. Residential development is allowed in the zone.
- The proposal is to subdivide existing parcel into 52 buildable lots, all with dedication of public rights-of-way. UDC 9.05.1
- The parent parcel is vacant.
- The parent parcel does not currently have access through the proposed area. This access will be constructed as part of the subdivision. An as-yet unnamed road and SW 3<sup>rd</sup>/4<sup>th</sup>/5<sup>th</sup> are proposed as public rights-of-way within this subdivision.
- The submitted Tentative Plat demonstrates a density standard within the standard criterion for density because it shows 52 buildable lots with no information restricting middle housing.
- The Tentative Plat indicates the average slope grade. The topography of the parent parcel demonstrates extensive slope (over 20%) surrounding SW Runnion Avenue. A note on the Tentative Plat states, "Total area for zones 2-5 (slopes 20% or greater) 135,520.2 sf (3.11 acres)." The Tentative Plat shows lots with a minimum lot size of 8,000 square feet and a maximum lot size of 28,200 square feet. The lot size criterion is not met because lots are greater than twice the minimum size. However, the Commission may approve a greater lot size if the land division is within density standards or extenuating circumstances justify a greater lot size. 52 lots without restricting Middle Housing is within the density standard.
- Development of the newly created parcels is reviewed at the Administration level.
- The proposed land division demonstrates dedicated public rights-of-way and 52 residential lots. The layout branches off from SW Tutuilla Road with local streets connecting the lands north and west of the Sunridge Middle School with this proposal, adjusting roads and lots to the topography of the land. To preserve future development, the Tentative Plat shows a short road extension to the north.
- The Tentative Plat demonstrates no block length because road connectivity will not be completed until lands north and east are developed. The proposal is not proposed as phased development and does not show a full block layout. The Tentative Plat was submitted by an engineer who drew rights-of-way and lots that exploit the topography. It demonstrates where rights-of-way can be constructed with lots having a flatter building pad area.
- Block lengths may be possible when a land size can be master planned for maximum development. This proposal is 21.2 acres, not large enough for master planning. The land rests against the Sunridge Middle School, which utilizes 20 acres and limits the potential road connectivity. Full build-out of the land north of the subject property has not occurred and the site has severe topographic grades and sight-distance hindrances. The combination of these factors limits the subject property's development to meet block length standards.
- The Tentative Plat provides connectivity with SW Tutuilla Road with most lots fronting new local roads. The main road, unnamed, is classified as a local road, and will connect with SW 3<sup>rd</sup>, 4<sup>th</sup> or 5<sup>th</sup> Street, in the proposal. Driveways may be configured to back out onto the new platted public rights-of-way.
- The Tentative Plat includes the construction of public rights-of-way. When the 52 lots are developed, the driveways will need to be paved for the first 20-feet to preserve the paved rights-of-way.
- Development of the proposed lots will require a minimum of two (2) street trees for each frontage of each buildable lot. Street trees are not typically installed upon issuance of a Certificate of Occupancy; therefore, staff has proposed an optional condition for the Commission: a Development Agreement with the developer ensuring that street trees are planted.
- The proposed development will be served by city utilities, and those utilities will need to be installed underground as a condition of development because Code requires that all extensions of utilities for future development be placed underground. Code also requires the extension of public utilities to facilitate future development. The applicant/property owner shall be responsible for contacting all private utility agencies to establish all necessary utility connections for the individual parcels.
- The Tentative Plat demonstrates 52 buildable lots within the Low-Density Residential zone. The lot size of most of the parcels exceeds the lot size prerequisite because the Tentative Plat demonstrates a minimum lot size of 8,000 square feet and a maximum lot size of 28,200 square feet, and the slope grade averages between >10% and 20%, with 3.11 acres over 20%.

## **9. APPLICATION OF THE CRITERIA**

### **SUMMARY FINDINGS (CONT'D):**

- The Land Division proposal minimizes the risk of flood damage because the proposed land division is not within a flood area.
- Utilities extending beyond the Land Division will not be susceptible to contamination during a flood because the proposed land division is not within a flood area.
- At the time of development, the City Engineer will review the grading of the site and the inclusion of storm sewer within the development, which will provide adequate surface drainage facilities because all new subdivision development requires engineering review prior to construction.
- The parent parcels are suitable for division and suitable for development because the land is within the City Limits, it neighbors residential development, it will have connectivity with city streets, and has the capacity to connect to existing utilities.
- The Tentative Plat name is not indicated on the Tentative Plat. The County Surveyor will determine if the chosen name has already been used for a land division.
- A Pre-Application Conference occurred regarding this land division.
- The applicant has applied for a land division with a Tentative Plat. The Tentative Plat has been prepared by a licensed engineer, ACH Engineering. Public sewer and water extensions are indicated on the Tentative Plat. New rights-of-way are indicated on the Tentative Plat.
- The Tentative Plat indicates an average grade, and contours are shown on the shadow plat.
- The applicant has submitted an application for a land division with a Tentative Plat. The Tentative Plat has been prepared by a licensed engineer, ACH Engineering. Staff cannot provide an administrative decision on subdivisions. The Tentative Plat includes lots greater than twice the minimum lot size. The Planning Commission must make the final decision on this application because it involves a subdivision.

**CONCLUSION: Conditions are required to meet criteria.**

## **10. SUMMARY CONCLUSIONS:**

1. The request does not comply with the UDC lot size but is within the density allowance for the R-1, Low Density Residential zone.
2. The request complies with the criteria for a land division (subdivision), or can comply subject to conditions of approval.
3. The Tentative Plat indicates the average slope grade. The topography of the parent parcel demonstrates extensive slope (over 20%) surrounding SW Runion Avenue. A note on the Tentative Plat states, "Total area for zones 2-5 (slopes 20% or greater) 135,520.2 sf (3.11 acres)." The Tentative Plat shows lots with a minimum lot size of 8,000 square feet and a maximum lot size of 28,200 square feet. The lot size criterion is not met because lots are greater than twice the minimum size. However, the Commission may approve a greater lot size if the land division is within density standards or extenuating circumstances justify a greater lot size. 52 lots without restricting Middle Housing is within the density standard.
4. The Tentative Plat demonstrates no block length because road connectivity will not be completed until lands north and east are developed. The proposal is not proposed as phased development and does not show a full block layout. The Tentative Plat was submitted by an engineer who drew rights-of-way and lots that exploit the topography. It demonstrates where rights-of-way can be constructed with lots having a flatter building pad area.
5. R-1, Low Density Residential has a density ratio of 1 dwelling unit per acre minimum and up to nine (9) units per acre maximum. The 21.2-acre parcel could have a minimum number of 50 buildable lots to meet density rate of 1 (R-1) dwelling units per acre or a maximum of 129 buildable lots (9 units/acre in R-1), with consideration of topography. The Tentative Plat demonstrates 52 buildable lots, which could produce between 52 dwelling units and 208 dwelling units.



As noted in §13.06, the burden is on the applicant to prove that a proposed land division meets all development criteria and standards. A request for tentative plat approval may not be granted unless all applicable decision criteria and standards are found met. In this case, staff was able to make findings and conclusions that all criteria are met or can be met through specific conditions of approval.

### **SIGNS:**

Approval of this Land Use Decision does not constitute sign permit approval. Signs are reviewed through a separate permit application procedure. Signs must comply with all applicable Oregon codes and City of Pendleton ordinances.

### **11. COMMISSION AMENDED FINDINGS & CONCLUSIONS:**

We the Commission find and conclude that:

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### **12. DECISION**

#### SUGGESTED MOTIONS FOR APPROVAL / DENIAL

**For approval** (*may be modified subject to summary findings and conclusions*):

1. I move that the Commission adopt the findings and conclusions prepared by staff (and as amended by the Commission), as set forth in action **SUB22-02** above.
2. I move that the Commission adopt these amendments as agreed upon by the Commission at this hearing: (list amendments).
3. I move that the request for a Subdivision of 21.2 acres to create 52 buildable lots with dedicated rights-of-way within the R-1 Low Density Residential zones, as set forth in action **SUB22-02** be **APPROVED**, based on the information, findings and conclusions set forth above (*and amended by the Commission, if applicable*), subject to the conditions of approval as recommended by staff (*and agreed upon by the Commission, if applicable*).

**For denial** (*may be modified subject to summary findings and conclusions*):

1. I move that the Commission adopt findings and conclusions as amended by the Commission, specifically showing that the proposal set forth in action **SUB22-02** DOES NOT meet the applicable approval criteria (*must note criteria cited*).
2. I move that the request for a Subdivision of 21.2 acres to create 52 buildable lots with dedicated rights-of-way within the R-1 Low Density Residential zones, as set forth in action **SUB22-02** be **DENIED**, based on the information, findings and conclusions made by the Commission at this hearing.

#### SUGGESTED MOTIONS FOR MODIFICATION

**For modification** (*may be modified subject to summary findings and conclusions*):

1. I move that the request for a Subdivision of 21.2 acres to create 52 buildable lots with dedicated rights-of-way within the R-1 Low Density Residential zones, as set forth in action **SUB22-02** be **returned to the applicant for modification and that this hearing be continued until such time as the application has been resubmitted for the Commission's review, provided that such resubmission is received within 60 days of tonight's hearing.**

Reviewed by George Cress, City Planner

### **13. CODES SPECIFIC TO APPLICATION**

#### **Needed Housing**

ORS 197.307(6) applies to "needed housing" as that term is defined in ORS 197.303, and provides that "[a]ny approval standards, special conditions and the procedures for approval adopted by a local government shall be clear and objective and may not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay." ORS 197.303, in turn, defines "needed housing" as follows:

As used in ORS 197.307, until the beginning of the first periodic review of a local government's acknowledged comprehensive plan, "needed housing" means housing types determined to meet the need shown for housing within an urban growth boundary at particular price ranges and rent levels. On and after the beginning of the first periodic review of a local government's acknowledged comprehensive plan, "needed housing" also means:

- Housing that includes, but is not limited to, attached and detached single-family housing and multiple family housing for both owner and renter occupancy;
- Government assisted housing;
- Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490; and
- Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated manufactured dwelling subdivisions.

## R-1 Low Density Residential

3.02.1 **Description and Purpose.** To provide for the transition of large, sparsely settled areas from rural or agricultural characteristics to neighborhoods with a variety of housing to include urban one-and-two family residential use and to provide areas where an agricultural atmosphere that does not conflict with other urban uses may be retained. Within a designated Opportunity Area, land within the R-1 zone is suitable for the range of urban land uses authorized by a Master Development Plan approved by the City pursuant to the Opportunity Area Subdistrict in Article 7.



3.02.2 **Permitted Uses.** The following uses and their accessory uses are permitted outright:

- A. City Park;
- B. Dwelling, duplex; or two single family dwellings on a minimum lot size of 6,000 square feet (subject to the provisions of Table 3.1), provided the distance between principal buildings is a minimum of ten feet;
- C. Dwelling, single family (attached or detached);
- D. Manufactured Home, Class A, provided that it is located within a Class A or Class B Manufactured Housing Subdistrict, and Class B, provided that it is located within a Class B Manufactured Housing Subdistrict, both subject to the requirements of Sections 3.05-3.07 of this Ordinance.
- E. Residential Homes and Residential Facilities (see ORS [197.660-670](#));
- F. Townhouse.
- G. Within a designated Residential or Mixed Use Opportunity Area, conditional uses listed in Section 3.02.3 shall be permitted when authorized by an approved Master Development Plan.
- H. Within a designated Mixed Use Opportunity Area, other urban uses shall be permitted when authorized by an approved Master Development Plan.
- I. Keeping of livestock (except swine), fowl, rabbits and bees primarily for personal, noncommercial use, provided that:
  1. In the case of livestock, it shall be kept in an enclosure having a minimum area of 2,500 square feet for each animal kept therein.
  2. In the case of rabbits or other like animals or fowl, animals or fowl shall be kept in an enclosure having not less than fifteen (15) square feet for each animal or fowl.
  3. No structure, building, corral, or enclosure erected or maintained for purposes of keeping livestock, rabbits or fowl shall be located within one hundred (100') feet of a dwelling, school, church, hospital, public playground or public building.
- J. Transportation uses consistent with the adopted Transportation System Plan and OAR 660-012-0045, and not otherwise identified as conditional uses, pursuant to 3.02.3 (P).

3.02.3 **Conditional Uses.** The following uses and their accessory uses are permitted when authorized in accordance with the provisions of Article 11 of this Ordinance:

- A. Agricultural Production and Services
- B. Animal Clinic, Kennel, or Hospital
- C. Bed and Breakfast
- D. Cemetery
- E. Church, lodge, private club or other assembly area
- F. Day Nursery, Social Services
- G. Dwelling, multi-family
- H. Governmental structure or land use, public and semi-public use; or structures
- I. Home occupation; as provided in Article 11 of this Ordinance
- J. Hospital and Health Care Facility
- K. Light Industrial Uses (Furniture manufacturing, printing and publishing, electrical and electronic equipment manufacturing, instruments and related products, miscellaneous manufacturing, bakeries, office and computing equipment)
- L. Manufactured Home Park, Manufactured Home Subdivision, Vacation Trailer Parks (Individual Conditional Use permits not required for each unit within approved parks or subdivisions)
- M. Neighborhood Commercial (see Section 3.08 for details)
- N. Schools and Colleges

- O. Transportation and Communication Facilities (Railroads, general warehouse/storage, air transportation, pipelines (except natural gas, packing and crating, communication facilities by wire or airwave, electric/gas/sanitary services)
- P. The following uses:
  - (1) park-and-ride/rideshare facilities
  - (2) transit centers
  - (3) transportation warehousing



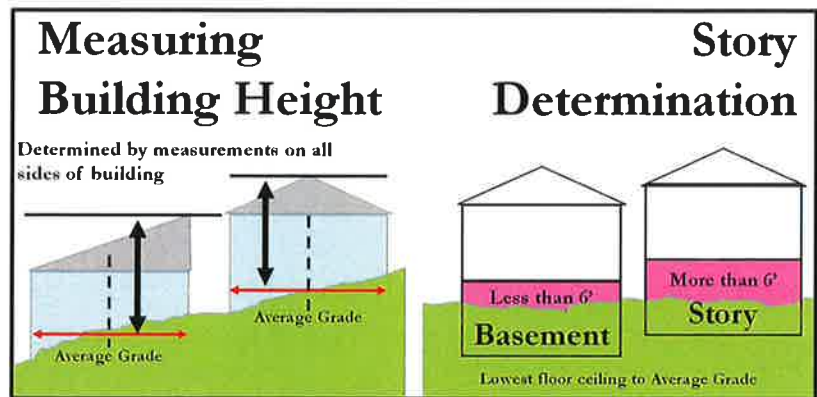
### 3.09 General Provisions for Residential Zones

This Section sets forth development standards that apply within Residential zones. However, in designated Opportunity Areas, the dimensional standards may be modified by an approved Master Development Plan (MDP) pursuant to the Opportunity Area Subdistrict in Article 7.

**3.09.1 Density.** In all of the residential zones, the minimum and maximum residential densities shall be as shown in Table 3.1.

**3.09.2 Lot Size.** In all of the residential zones, the minimum lot sizes shall be as shown in Table 3.1.

**3.09.3 Maximum Lot Size.** The maximum lot size that may be approved administratively shall not exceed twice the minimum lot size under the corresponding zone and slope. Mapped constraints may be removed from the maximum lot size calculation.



**3.09.4 Maximum Height.** In all of the residential zones, the maximum height shall be as shown in Table 3.1. Building height shall be determined by measuring all sides of a building relative to average grade. Building stories located more than six feet above average grade shall be counted as a full story; those less than six feet above average grade shall be counted as a basement.

**3.09.5 Exceptions to Height limits.** The height limits of this Ordinance shall not apply to church spires, belfries, cupolas, and domes not for human occupancy, monuments, water towers, observation towers, transmission towers, windmills, chimneys, smokestacks, derricks, conveyors, flagpoles, radio towers, masts, aerials, solar energy collectors and equipment used for the mounting or operation of such devices, and any other on-site energy generating device.



**3.09.6 Maximum Lot Coverage.** In all of the residential zones, the maximum lot coverage shall be as shown in the adjacent diagram and Table 3.1.

### 3.09.7 Miscellaneous Lot Provisions.

- A. Building Lots must abut a public right of way or other public access. No residential, commercial, or industrial building shall be erected on a lot which does not abut at least one street. Where there is a residence constructed, as of the date of this Ordinance, on an interior lot not abutting on a public street, such property shall continue unaffected except that in the case of reconstruction of such a structure, as provided in Section 11.07 of this Ordinance, nothing more than a single family dwelling and accessory buildings may be constructed upon such interior lot, and then only when easements for ingress and egress are recorded.
- B. The primary access shall be via a street that is improved or will be improved to City standards prior to occupancy of any unit, unless otherwise approved by the Planning Commission.
- C. Parking, Storage or Use of Recreational Equipment. No equipment shall be used for living, employment, sleeping or housekeeping purposes, nor connected to utilities, when parked or stored on a residential lot, or in any location not approved for such use. Recreational vehicles may be used for guest accommodation for a maximum of 14 days within a three month period.
- D. Parking and Storage of Certain Vehicles. Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially used property other than in completely enclosed buildings.

### 3.09.8 Yard (Setback) Regulations – Primary Structures

- A. Front Yard: The minimum front setback shall be as shown in Table 3.1.



- B. Side Yard: The minimum side setback shall be as shown in Table 3.1, except on corner lots, where ten (10) feet are required on the side abutting the street, and in the case of attached single-family dwellings, where a zero lot line is allowable (with the provision of common "party" wall construction);
- C. Rear Yard: The minimum rear setback shall be as shown in Table 3.1, except in the case of attached single-family dwellings, where a zero rear lot line is allowable (with the provision of common "party" wall construction).
- D. Garage or carport face: 20 feet from any property line. The front wall of a garage, and any portion of a carport, shall not be permitted less than twenty (20) feet from a property line for primary and accessory structures.
- E. The required front yard depths may be reduced in any residential zone as follows:
  1. If there are dwellings on both abutting lots with front yards of depths less than the required depth for the zone, the depth of the front yard for the intervening lot need not exceed the average depth of the front yards of the abutting lots;
  2. If there is a dwelling on one abutting lot with a front yard of less depth than the required depth for the zone, the front yard for the lot need not exceed a depth one-half way between the depth of the abutting lot and the required front yard depth;
  3. In determining the depth of a front yard, the required depth shall be measured at right angles to the nearest street right-of-way, except as provided in subsection (F) below.
- F. No building shall be erected on a lot which fronts upon a street having only a portion of its required width dedicated (as set forth in the Comprehensive Plan), unless the yards provided and maintained in connection with such building have a width and/or depth needed to complete the street right-of-way width plus the width and/or depth of the yards required on the lot by this Ordinance.
- G. Only under adverse topographical circumstances will a variance be granted for a front yard setback less than ten (10') feet.
- H. Projecting Building Features: The following building features may project into the required front yard no more than five (5') feet, and into the required interior yards no more than two (2) feet, provided that such projections are no closer than three (3) feet to any interior lot line:
  1. Architectural features such as gutters, flues, eaves, cornices, belt courses, sills, awnings, buttresses, or similar features;
  2. Chimneys and fireplaces.

### 3.09.9 Setbacks – Accessory Structures, Fences and Walls

- A. The front wall of a garage or carport shall not be permitted less than twenty (20) feet from a property line fronting an existing street or a future street as shown in the Transportation System Plan. Garages and carports on alley frontages shall have a minimum setback of five (5) feet.
- B. In any zone, open work fences, hedges, guard railings or other landscaping or architectural devices for safety protection around depressed ramps, stairs or retaining walls, may be located in required yards, provided such devices are not more than three and one-half feet (42") in height. Only stairs and protective railings may be located within the first ten (10') feet of the required front yard.
- C. Accessory Structure: In the interior rear and/or side yards, an accessory structure may be located so that its walls and/or projecting features shall be no closer than three (3) feet to the property line.
- D. Solar energy collectors and equipment used for the mounting or operation of such devices, and any other on-site energy generating device shall be exempt from the interior yard requirements.
- E. Satellite dish antennas shall not be located in the front yard (setback) of a dwelling.
- F. Porches, patios, decks and associated covers, and unattached solar energy systems shall be permitted with a minimum ten (10') foot front yard setback. Such structures shall not be enclosed to extend the living areas of the house.
- G. Stairs and other means of access to side and/or rear decks and patios may project into the minimum side and/or rear setback provided they are permitted in accordance with all applicable Structural, Fire or other codes.
- H. Fences and Walls. In any residential zone, a sight obscuring fence or wall, not exceeding six (6) feet in height, may be located or maintained within the required interior yards, except where the requirements of vision clearance apply. Such fences or walls may be placed in front or side yards abutting a street, provided such fences or walls do not exceed three and one-half (3.5') feet in height. Non-sight obscuring fences of six (6') feet or less in height may be erected within any required yard. This Section does not apply to retaining walls.
- I. Retaining walls. Retaining walls, steps, ramps and other associated elements associated with site grading are exempt from setback standards but must observe all other applicable permitting requirements.

<b>Lot size and Density</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>
Minimum Density (DU/acre)	1	4	10
Maximum Density (DU/acre) – Does not apply to duplexes or two single-family dwellings on a lot	9	18	35
Minimum Lot Size (<10% slope)	6000sf	5000sf	5000sf
Single Family attached	3000sf	3000sf	3000sf
Minimum Lot Size (10-20% slope)	7000sf	7000sf	6000sf
Single Family attached	3500sf	3500sf	3500sf
Minimum Lot Size (>20% slope)	9000sf	8000sf	7000sf
Single Family attached	4000sf	4000sf	4000sf
Planning Commission approval required for any lot or parcel more than 2X the minimum - see Section 3.08			
Maximum height (feet / stories)	30 / 2	40 / 3	50 / 5

Maximum lot coverage (%)	35	40	45
<b>Setbacks (feet)</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>
Front	15	15	10
Front (unenclosed elements)	10	10	10
Side	5	4	3
Rear	5	5	5
Street/Side	10	10	10
Garage/Carport Face all sides	20	20	20
Front - accessory structure	20	20	20
Side - accessory structure	3	3	3
Rear - accessory structure	3	3	3
Street/Side - accessory structure	10	10	10
<b>Permitted and Conditional Uses: Residential</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>
Single Family Detached	P	P	X
Single Family Attached	P	P	P
Duplex or two SFD on one lot	P	P	P
Townhouse	P	P	P
Multi-Family Dwelling	CU	CU	P
Manufactured Home Park/Subdivision	CU	P	X
Vacation Trailer Park	CU	P	X
Home Occupation	CU	CU	CU
Residential Care Facility	P	P	P
Boarding and Lodging House	X	X	P
<b>Permitted and Conditional Uses: Non-Residential</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>
Animal Clinic, Kennel or Hospital	CU	X	X
Agricultural Production and Services	CU	X	X
Business and Professional Offices/Services	X	X	CU
Cemetery	CU	CU	X
Church, Lodge, Club, General Assembly	CU	CU	CU
City Park	P	P	P
Day Nursery, Social Services	CU	CU	P
Government Structure or Land Use	CU	CU	CU
Hospital, Nursing Care Facility	CU	X	X
Health Services, general	X	CU	CU
Light Industrial	CU	X	X
Neighborhood Commercial	CU	CU	CU
Schools, Colleges	CU	CU	CU
Transportation & Communication Facilities	CU	CU	CU

8.03.1 **Provision of Off-Street Auto and Bicycle Parking.** The following off-street automobile and bicycle parking MINIMUMS are hereby established. PARKING MAXIMUMS ARE SET AT 125 PERCENT OF THE MINIMUMS for automobile parking; parking maximums do not apply to bicycle parking. City Engineer/designee may consider alternatives if presented in writing prior to plan approval.

**A. Residential:**

1. Single family (attached or detached): one (1) space per unit;
2. Duplex - two (2) spaces per duplex;
3. Multi-family dwellings: one and one-half (1.5) spaces per unit in residential zones, one (1) space per unit in commercial zones; plus one bicycle space per seven (7) units in all multi-family dwellings;
4. Residential hotel, rooming or boarding houses: Spaces equal to eighty (80%) percent of the number of guest accommodations plus one (1) additional space for the owner or manager.

**9.01 Blocks**

9.01.1 Blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depths. Exceptions to this prescribed block width shall be permitted due to topography, or in blocks adjacent to arterials, railroads, waterways, cemeteries, parks, or public land or farmland.

In certain blocks, the Planning Commission may require an easement or dedicated right-of-way through the block to accommodate utilities, drainage facilities, pedestrian ways, or bicycle ways. The dedication of pedestrian or bicycle ways, not less than five (5) feet wide for the travel way, may be required by the Commission through a block or to connect to a cul-de-sac or where deemed necessary to provide circulation or access for non-motorized traffic.

In order to promote efficient pedestrian and vehicular circulation throughout the city, subdivisions and site developments shall be

served by a connecting network of public streets and/or access ways, in accordance with the following standards. The standards preferably determine minimum and maximum distances between streets and access ways):

- A. Residential Districts: Minimum of one hundred (100) foot block length and maximum of eight hundred (800) length; maximum two thousand (2,000) feet block perimeter;
- B. Downtown: Minimum of one hundred (100) foot length and maximum of four hundred (400) foot length; maximum one thousand seven hundred (1,700) foot perimeter;
- C. General Commercial Districts: Minimum of one hundred (100) foot length and maximum of six hundred (600) foot length; maximum one thousand four hundred (1,400) foot perimeter;
- D. Master planned Developments: Large multi-use sites may be granted a variance from these limits if the development is developed with multiple users and owners in its final development. These developments may not include districts solely developed for retail sales establishments or other similar uses that involve high traffic; and not applicable to the Industrial Districts.

## 9.02 Lot or Parcel Arrangement

- 9.02.1 The lot or parcel arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits to build on all lots or parcels in compliance with this ordinance and health regulations and in providing reasonable driveway access to buildings on such lots or parcels from improved streets.
- 9.02.2 Developers shall encourage solar energy usage when topography allows by ensuring that a maximum number of lots can be developed with access to active and passive solar energy potential.
- 9.02.3 In general, side lot or parcel lines shall be at right angles to street lines (or radial to curving street lines) unless a variation from this rule will give a better street, lot or parcel plan. Dimensions of corner lots or parcels shall be large enough to allow for erection of buildings, observing the minimum front yard setback from both streets. Depth and width of properties anticipated for business, commercial or industrial purposes shall be adequate to provide for the off-street parking and loading facilities required for the type of use and development contemplated, as established in this ordinance.
- 9.02.4 Lot or parcel dimensions shall comply with the minimum standards of this ordinance. Where lots or parcels are more than double the minimum required area for the zoning district, the Planning Commission may require that such lots be arranged to allow further subdivision or partition and the opening of future streets or other means of access.
- 9.02.5 To allow creativity and flexibility in subdivision design and to address physical constraints such as topography, existing development, significant trees and other natural and built features, the Planning Commission may grant a modification to the minimum and maximum lot area, provided that the overall density of the subdivision meets the standards of the zone and every lot has a sufficient building envelope.
- 9.02.6 Through lots or parcels shall be avoided except where necessary to provide separation of residential development from traffic arterials or to overcome specific disadvantages of topography and orientation. Flag lots or parcels shall also be discouraged, unless deemed appropriate by the Planning Commission to overcome topographical or other hardships.
- 9.02.7 A parcel, partitioned solely for the purpose of segregating one separate smaller parcel for an existing or proposed single family house, shall be exempt from the provisions above provided the parcel to be created for the single-family house shall not contain sufficient lot area to allow further division under the standards of the applicable existing zone.
- 9.02.8 Development Permits for siting of new dwellings on any lot more than twice the minimum size of the underlying zone that would prohibit future land divisions are discouraged unless topographical or other similar constraints merit consideration of a larger lot in order to achieve a suitable building envelope.

## 9.05 Access to Lots or Parcels

- 9.05.1 All lots in any land division shall have frontage on or access from an existing street on the official map or Comprehensive Plan or:
  - A. An existing State Highway, County Road, or City street;
  - B. A street shown upon a plat or map approved by the City Planning Commission and recorded in the Umatilla County Clerk's office. Such street shall be suitably improved as required by the standards of the jurisdiction, or be secured by a performance agreement or bond as required by this Ordinance, with the width and right-of-way required by this Ordinance and the Transportation System Plan.
- 9.05.2 Driveways Permitted.
  - A. City Streets. In any district, driveways or access-ways providing ingress and egress to or from private parking areas or garages, public parking areas or garages and parking spaces shall be permitted and constructed consistent with the standards in this Section, together with any appropriate traffic control devices in any required yard.
  - B. County Roads. Access to lots fronting on County Roads requires a Umatilla County Access Permit, issued through the Public Works Department.
  - C. State (ODOT) facilities. Access to ODOT rights-of-way requires a Permit to Operate, Maintain and Use a State Highway



Approach issued through the ODOT District 12 Office at 1327 S.E. 3rd Street.

- D. Permits for new driveways or any other form of access to a street not improved to City standards shall carry, as a condition of approval, the requirement to either improve the street to City standards or provide a consent to LID to do so at a later date.
- 9.05.3 Residential lots or parcels shall derive access other than from an arterial street. Where driveway access from an arterial may be necessary for several adjoining lots, the Planning Commission may require that such lots be served by a combined access drive, or not be served at all, in order to limit possible traffic hazards on such a street. Driveways shall be designed and arranged so as to avoid requiring vehicles to back into traffic on an arterial or collector street.
- 9.05.4 When a land division borders on or contains an existing or proposed arterial, the Planning Commission shall require that access to such streets shall be limited to the following means (and in priority order):
- A. Lots shall be subdivided and parcels partitioned so as to not front the arterial, but to front onto a minor or local street. Screening shall be provided in a strip of land along the property line common to the arterial of such lots or parcels;
  - B. Alleys or dedicated access easements located between an arterial and a local street shall meet all applicable fire code standards.
  - C. A series of cul-de-sacs, U-shaped streets, or short loop streets entered from and designed generally at right angles to such a parallel street, with rear and/or side lines of their terminal lots or parcels being adjacent to the arterial;
  - D. A marginal access street (separated from the arterial by a planting or grass strip and having access thereto at suitable points).
- 9.05.5 Corner and Intersection Separation; Access Spacing; Backing onto Public Streets. New and modified accesses shall conform to the following standards:
- A. On lots having two or more street frontages, the frontage abutting the street with a lower classification shall be used for access.
  - B. On lots having two or more street frontages, all of which are the same classification, the longer frontage shall be used for access.
  - C. In all cases, vehicular access on corner lots shall be the maximum practical distance from the intersection.
  - D. Except as provided under subsection H, below, the following minimum distances shall be maintained between access points or approaches, where distance is measured from the edge of one approach to the edge of another:
    1. On an arterial street: 300-500 feet based on speed limit or posted speed, as applicable, except as otherwise required by ODOT for a state highway, pursuant to Oregon Administrative Rules (OAR) 734-051; and
    2. On a collector street: 100 feet; and
    3. On a local street, 30 feet.
  - E. New property access on state highways shall conform to the State highway access spacing requirements in OAR 734-051.
  - F. New property access on Collector and Arterial streets other than state highways shall not be permitted within fifty (50) feet of an intersection, unless no other reasonable access to the property is available or could be developed and a modification in the site design of the property cannot remedy the situation. The measurement shall be taken from the curb edge, or if no curb exists, from the theoretical curb location based on the planned roadway section for the given street. Where no other alternatives exist, the City may, at its discretion, allow construction of an access connection at a point less than 50 feet from an intersection, provided the access is as far away from the intersection as possible. In such cases, the City may impose turning restrictions and other traffic management techniques (i.e., right in/out, right in only, or right out only).
  - G. Access to and from off-street parking areas shall generally not permit backing onto a public street, except for single-family dwellings and duplexes. Where no other alternative exists the City, at its discretion, may allow backing onto a public street from perpendicular or angle parking spacing with the employment of a variety of transportation engineering or transportation planning techniques designed to mitigate or reduce to a reasonable level the safety hazard. Required features may include one-way streets with curb bulb-outs, curvilinear design, and modification of sidewalk locations.
  - H. The Director may reduce required separation distance of access points where they prove impractical due to lot dimensions, existing development, other physical features, or conflicting code requirements, provided all of the following requirements are met:
    1. Joint-use driveways and cross-access easements are provided, where practical;
    2. The site plan incorporates a unified access and circulation system in accordance with this Section; and
    3. The property owner(s) enter in a written agreement with the City that pre-existing connections on the site will be closed and eliminated in conjunction with construction of each side of the joint-use driveway. Said written agreement can take the form of a condition of approval for a subdivision, partition, development review, site plan review, or recorded with the deed.
  - I. While the TSP does not restrict private driveway access on urban local streets, residential projects under review will be encouraged to combine driveway access through joint-use driveways or to access parking off of established alleys where conditions are practical.
- 9.05.6 Site Circulation. New developments shall be required to provide a circulation system that accommodates expected traffic on the site and does not conflict with traffic on adjacent roads. Pedestrian and, as applicable, bicycle way connections on the site, including connections through large sites, and connections between sites (as applicable) and adjacent sidewalks, must meet minimum City Standards.
- 9.05.7 Joint and Cross Access Requirement. The number of driveway and private street intersections with public streets should be minimized by the use of shared driveways for adjoining lots where feasible. When necessary for traffic safety and access

management purposes, or to access flag lots, the Director may require joint access and/or shared driveways in the following situations as follows:

- A. For shared parking areas;
- B. For adjacent developments, where access onto an arterial is limited;
- C. For multi-tenant developments, and developments on multiple lots or parcels. Such joint accesses and shared driveways shall incorporate all of the following:
  - 1. A continuous service drive or cross-access corridor that provides for driveway separation consistent with the applicable transportation authority's access management classification system and standards;
  - 2. A design speed of 10 miles per hour and a maximum width of 20 feet, in addition to any parking alongside the driveway; additional driveway width or fire lanes may be approved when necessary to accommodate specific types of service vehicles, loading vehicles, or emergency service provider vehicles;
  - 3. Driveway stubs to property lines (for future extension) and other design features to make it easy to see that the abutting properties may be required with future development to connect to the cross-access driveway.

9.05.8 Joint and Cross Access: Reduction in Required Parking Allowed. When a shared driveway is provided or required as a condition of approval, the land uses adjacent to the shared driveway may have their minimum parking standards reduced in accordance with the shared parking provisions.

9.05.9 Joint and Cross Access: Easement and Use/Maintenance Agreement. Pursuant to this Section, property owners shall:

- A. Record an easement with the deed allowing cross-access to and from other properties served by the joint-use driveways and cross-access or service drive;
- B. Record an agreement with the deed that remaining access rights along the roadway for the subject property shall be dedicated to the City and pre-existing driveways will be closed and eliminated after construction of the joint-use driveway;
- C. Record a joint maintenance agreement with the deed defining maintenance responsibilities of property owners.

9.05.10 Width of Driveway Approach Apron. The width of driveway approach aprons shall not exceed the following dimensions:

- A. For residential driveways, 14 feet for single driveways and 22 feet for double driveways. No more than one driveway shall be permitted for lots having frontages of 60 feet or less.
- B. For commercial driveways, when one or more driveway approaches serve a given property frontage, no single apron shall exceed 30 feet in width if the property abuts a street where the speed limit is 25 miles or less per hour; or 35 feet in width where the speed limit is in excess of 25 miles per hour.
- C. A safety island of full height curb shall be provided between driveway approaches serving any one property frontage. Whenever possible, this safety island shall be 22 feet in length and in no case shall it be less than 10 feet in length.
- D. In no case shall single driveways serving more than one property be combined to allow greater widths than stated above.
- E. Deviations not to exceed 50%, of the maximum Driveway Approach Apron width limitations may be considered for Type II Minor Variance approval.

9.05.11 Driveway Surfaces.

- A. Driveway surfaces shall be designed for all weather conditions (paved or compacted gravel). Vehicle driveway and storage areas will not be allowed to be dirt or vegetation. For grades over 8 percent, paved driveway surfaces are required. All portions of the driveway within the public right-of-way, and at a minimum of the first 20 feet behind the curb or sidewalk shall be paved as an apron to control gravel.
- B. For residential driveways, including private roads, the maximum slope of any portion of the driveway shall be 20 percent, with an overall average grade of less than 15 percent along the entire length of the driveway. The maximum grade change in any given 10 feet of driveway shall be 12 percent for a crest situation and 16 percent for a sag situation. The maximum number of houses served by a driveway or private road is three.
- C. For commercial or industrial driveways, including private roads, the maximum slope of any portion of the driveway shall be 15 percent for any point above the elevation of the roadway, and shall be 8 percent for any point below the elevation of the roadway. The overall average grade shall be less than 12 percent along the entire length of the driveway. The maximum grade change in any given 10 feet of driveway shall be 8 percent for a crest situation and 12 percent for a sag situation.
- D. Every driveway approach or entrance to abutting property shall be maintained and kept in safe condition by the owner of the abutting property. Any driveway approach which is not so maintained or which interferes with the drainage or safe travel of the street shall be repaired to conform to the specifications of the City ordinances and the City Engineer or be removed.
- E. Driveways less than 18 feet in depth, or those that would force a vehicle to park over an existing or future public sidewalk, shall be prohibited.

9.05.12 Abandoned Driveways. When a driveway approach no longer provides necessary access for vehicles to parking areas, driveways, or doors intended and used for vehicles, such driveway approach shall be removed. Upon removal of any such driveway approach, that portion of the street occupied by the same shall be restored as nearly as practicable to match the conditions adjacent to the driveway approach or in accordance with design standards for public streets. Restoration shall include curbing, sidewalk to the nearest grid section, and landscaping, all by and at the expense of the owner abutting the property.

## 9.10 Natural Features and Trees

- 9.10.1 Existing features which would add to the value of residential development or to the City as a whole, such as trees, waterways, historic sites, and similar assets, shall be preserved as they exist in the design of the land division. No trees shall be removed from any land division nor any change in grade of land affected until approval of the Tentative Plat has been granted. The Tentative Plat shall indicate the location of existing trees, and whether they are planned for removal or retention. Trees required to be retained shall be preserved and protected against excavations. The location of all proposed new shade trees along the street side of each lot or parcel as required by this Ordinance shall also be shown on the Tentative Plat.
- 9.10.2 As a requirement for any subdivision or major partition approval, and prior to City acceptance of the street improvements, the developer shall plant shade trees as established by this Ordinance. Such trees are to be planted within the planting strip five (5) feet of the right-of-way of the streets within and abutting the land division, unless this location is altered for utility purposes. A minimum of at least one (1) tree shall be planted for every seventy (70) feet of frontage along each street unless otherwise approved by the Planning Commission. A minimum of two trees per frontage is required. Sleeves shall be provided under the sidewalk for irrigation of the planting strip. Tree planting is required before the City will establish a Water service account, or other agreements must be made with the City. Shade trees planted in planting strips shall come from the street tree manual developed by the City. At the discretion of the Director and where the sidewalks are curb-tight, the Plantings can be allowed behind the sidewalk or within tree wells.
- 9.10.3 New shade trees to be provided pursuant to this Ordinance shall have a minimum trunk diameter of not less than two (2) inches measured twelve (12) inches above the ground level, and be oak, honey locust, hard maples, or other long-lived shade trees as approved by the Planning Commission. Shade tree maintenance shall be the responsibility of the property owner.
- 9.11.15 **Dead End Streets.** A temporary "T" or "L-shaped" or circular turnaround shall be provided on all temporary dead-end streets (which may extend into adjoining vacant property as some future date). The plat or map shall contain a notation that such land outside the normal street right-of-way shall revert back to the abutting property owners whenever the street is continued. The Planning Commission may limit the length of temporary dead-end streets in accordance with the design standards of this Ordinance.
- 9.11.17 **Temporary dead-end streets** shall include clear signage that the street is a dead-end and that it is barricaded. The sign shall read "Dead End, This road will be extended with future development". Further the street shall include a reflective barricade (per Manual of Uniform Traffic Control Devices) constructed at the end of the street by the developer and shall not be removed until authorized by the City or other applicable agency with jurisdiction over the street. The cost of the barricade and signage shall be included in the street construction cost and born by the developer

## 9.12 Street Improvements

- 9.12.1 All streets shall be constructed and surfaced in accordance with the applicable standard specifications of the City. In a residentially zoned area, if the City requires a developer to install a street with pavement width greater than 36 feet to provide an arterial street or traffic route, the City will pay only the portion of the pavement and rock base cost in excess of the cost of a 36 foot street. If the City determines that a developer shall install a street with pavement width greater than 36 feet to provide a collector street or traffic route, the City will have no obligation to participate in oversizing costs. In a commercial or industrially zoned area, if the City requires a developer to install a street with a pavement width greater than 36 feet to provide a collector or arterial street or traffic route, the City will have no obligation to participate in oversizing costs.
- 9.12.2 In instances where streets will provide direct access for any residential zone utilizing a density of less than 21 dwelling units per acre, the developers shall provide excavation and embankment for every right-of-way within their development from the back of the curbs and/or sidewalks to the property line to a vertical grade not to exceed five (5%) percent. In all other instances, developers shall provide excavation and embankment behind the curb and/or sidewalk to plus or minus five (5%) percent vertical grade for a total width of fifty-two (52) feet for a thirty-six (36) foot wide street, and sixty (60) feet for a forty-four (44) foot wide street. If after construction of the street, the land requiring access is changed to any residential zone utilizing a density of less than 21 units per acre, the developer making the change to any residential zone utilizing a density of less than 21 units per acre shall modify the direct access streets to provide excavation and embankment of those rights-of-way within their development from the back of the curbs and/or sidewalks to the property line to a vertical grade not to exceed five (5%) percent.
- 9.12.3 When a parcel borders an existing narrow road or street, or when the Comprehensive Plan or other City policies indicate plans for realignment or widening of a street that would require use of some of the land in the land division, the developer shall provide an irrevocable commitment to pay for the dedication and improvement of said substandard street to the full width as required by the Comprehensive Plan and City standards. Land dedicated for street purposes shall not be counted in satisfying area or yard requirements of this ordinance.
- 9.12.4 **Street names** are assigned by the City and reviewed and approved by the Planning Commission at the time of Tentative Plat approval. All new street names and house numbers shall conform to Ordinance No. 2290 (Street Naming). A street which is or is planned as a continuation of an existing street shall bear the same name. Names of any new streets shall be sufficiently different in sound and in spelling from other street names in the City so as to not cause confusion.



### 9.13 Mail Boxes

- 9.13.1 **Joint mail box facilities** shall be provided in all residential subdivisions, with each joint mail box group servicing at least two, but no more than **twelve** dwelling units, unless otherwise approved by the Planning Commission. Joint mailbox structures shall be placed in the street right-of-way adjacent to the curb as set forth in the design standards adopted by the Community Development Director. Proposed locations of joint mailboxes shall be designated on the Tentative Plat and shall be approved by the Community Development Director and the U.S. Postal Service. Sketch plans for the structures shall be approved by the City prior to final plat approval.
- 9.13.2 The applicant shall be responsible for the cost for all street name and traffic signs required by the City. The City shall install all street signs before accepting a street for public maintenance.

### 9.14 Soil Grading, Drainage, and Retention



- 9.14.1 Prior to the issuance of a Certificate of Occupancy, final grading shall be completed in accordance with applicable Code requirements and the approved final subdivision plat or partition map.
- 9.14.2 Lots or parcels shall be laid out so as to provide positive drainage away from all buildings and individual lot or parcel drainage shall be coordinated with the general storm drainage pattern for the entire area. Drainage shall be designed using berms, swales, and other techniques so as to not permit storm water drainage from each lot or parcel to adjacent lots or parcels.
- 9.14.3 Each land developer shall be required to furnish and install retaining walls should the Planning Commission determine that a hazardous condition may exist without such walls. Retaining walls shall be constructed according to standards established by the City. Any wall greater than 4' in height or subject to surcharging above the top of the wall shall be designed by an Oregon Registered Engineer. Such improvements shall be installed prior to the approval of occupancy of any home or structure in the land division.


### 9.15 Drainage Improvements




- 9.15.1 The Planning Commission shall approve a plat only when adequate provisions are made for the handling of storm or flood water runoff. The storm water drainage system shall be separated and independent of any sanitary sewer system. Storm sewers shall be designed to the approval of the Community Development Director, and a copy of design computations shall be submitted along with the construction plans. Inlets shall be provided so that surface water is not carried across or around any intersection, or for a distance of more than six hundred (600) feet in a gutter. When calculations indicate that curb capacities are exceeded at a point, no further allowance shall be made for flow beyond that point, and basins shall be used to intercept flow at that point. Manholes shall be installed at the end of each line; at all changes in size, alignment, or grade; at all intersections; and at distances not greater than five hundred (500) feet, or as approved by the Community Development Director. All manholes must be accessible by a motor vehicle. Manhole construction shall be in accordance with City standard specifications.
- 9.15.2 The development of commercial or industrial sites, and all subdivision type land developments, shall restrict the rate and volume of stormwater runoff from the site to a pre-construction/pre-development peak rate for a 25-year storm. All calculation methods and analysis shall follow the Central Oregon Stormwater Manual.
- 9.15.3 All drainage facilities shall be installed at the fair share expense of the land divider (as determined by the City Council) and be large enough to accommodate potential runoff from the entire upstream drainage basin, whether inside or outside of the City limits or land division. The Community Development Director shall determine the necessary size of the drainage facilities based on the provisions of the construction standards and specifications and the adopted stormwater manual, assuming conditions of maximum potential watershed development permitted by the Comprehensive Plan, zoning ordinance, and other regulations.
- 9.15.4 The developer shall provide a drainage study showing the effect of each development or land division on existing downstream facilities outside the area of development or the land division for flow greater than a 25-year storm, and up to a 100-year storm. This drainage study, together with other such studies as shall be appropriate, shall serve as a guide to improvements. Where it is anticipated that the additional runoff from the development from an incident greater than a 25-year storm will overload an existing downstream drainage facility, and especially when it is found that there is imminent potential of downstream property damage, the Planning Commission may withhold approval of the land division until provisions have been made to upgrade the drainage facility so it can handle the anticipated flows.
- 9.15.5 For any land division proposed within a Special Flood Hazard Area, all applicable standards contained in the City's Floodplain Ordinance (No. 3791) shall be observed.
- 9.15.6 Drainage Easements.

- A. Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within the street rights-of-way, perpetual unobstructed easements at least ten feet in width for such drainage facilities shall be provided across property outside the street lines with satisfactory access to the street. Drainage easements shall be carried from the street to a natural watercourse or to other drainage facilities.
- B. When a proposed drainage system will carry water across private land outside of the land division, appropriate drainage rights must be secured and indicated on the plat.
- C. The applicant may be required to dedicate land (either in fee or by drainage or conservation easement) adjacent to existing water-courses, in locations to be determined by the Planning Commission to meet the policies of the City.

### 9.16 Water System Improvements

- 9.16.1 Water system design shall take into account provisions for extension beyond the development and to adequately grid the City system. All public water lines shall be extended through the property served consistent with City polices and as approved by the Community Development Director. 
- 9.16.2 In an area utilizing municipal water, the developer will be required to install public water lines to acceptable standards and of sufficient size to meet all demands including fire flow demands, actual and potential, of the area being developed. The sizes required shall be established by the Community Development Director in accordance with acceptable engineering standards, but in no case, except in certain dead-end water lines recognized by the Community Development Director, shall this size be less than eight (8) inches in diameter. Should the City require water line oversizing in excess of that normally required for the area being developed, the City shall reimburse the developer in the amount of the difference in pipe material costs.
- 9.16.3 Nothing in this Ordinance shall be construed as requiring the City to furnish water to any land division.
- 9.16.4 All water lines shall have a minimum depth of thirty (30) inches.
- 9.16.5 Wherever a water main or service passes beneath a sidewalk, this location shall be permanently identified by etching a "W" into the concrete curb directly above the water line at the time of street and curb improvements.
- 9.16.6 Fire hydrants shall be required for all subdivisions and may be required for a partition. Fire hydrants shall be so located per the Fire Code. The location of fire hydrants shall be approved by the Community Development Director and the Fire Chief. To minimize future street openings, all underground utilities for fire hydrants, together with the fire hydrants themselves, shall be installed before any final paving of a street shown on the final plat. Fire Hydrants shall be installed and flow tested to the satisfaction of the Fire Department, Public Works Department, and Community Development Director prior to the beginning of any combustible construction.

### 9.17 Sewer System Improvements

- 9.17.1 General Requirements. 
  - A. All developers shall install sanitary sewer facilities in a manner prescribed by the construction standards and specifications of the City. All plans must be approved by the Community Development Director.
  - B. All sanitary sewage facilities of any land division shall connect to the City sanitary sewer system. Individual disposal systems or treatment plants (private or group disposal systems) will not be permitted.
- 9.17.2 Design Criteria.
  - A. These design criteria are not intended to cover exceptional circumstances or situations which may be granted an exception by the Community Development Director if adequate justification is provided by the applicant.
  - B. Sanitary sewer design shall take into account the capacity and grade to allow for desirable extension beyond the development. All public sanitary sewer lines shall be extended through the property served consistent with City policies and as approved by the Community Development Director.
  - C. In an area utilizing municipal sanitary sewage disposal, the developer shall be required to install public sewer lines to acceptable standards and of sufficient size to meet all demands, actual and potential, of the area being developed. The sizes required shall be established by the Community Development Director in accordance with acceptable engineering standards. In no case, except in certain dead-end sewer line instances approved by the Community Development Director, shall this size be less than eight (8) inches in diameter. Should the City require sewer line sizing in excess of that normally required for the area being developed, the City shall reimburse the developer in the amount of the difference in pipe material costs.
  - D. Sewer capacities shall also be adequate to handle anticipated maximum hourly quantities of sewage and industrial waste, including acceptable allowances for infiltration or other extraneous flow. Sewer line size, slope, depth and alignment shall be to City standards as approved by the Community Development Director.
  - E. Manholes shall be installed at the end of each line; at all changes in size, alignment, or grade; at all intersections; and at distances not greater than five hundred (500) feet, or as approved by the Community Development Director. All manholes must be accessible by a motor vehicle. Manhole construction shall be in accordance with City standard specifications.



- F. Sanitary sewers shall be located within street rights-of-way unless topography or other extraordinary circumstances dictate otherwise. When located in easements on private property, all such easements shall be at least twenty (20) feet in width.
- G. Wherever a sanitary sewer line passes beneath a sidewalk, this location shall be identified by permanently etching an "S" into the concrete curb directly above the sewer line, at the time of street and curb improvements.
- H. Clean outs are required at all points where the service lateral crosses the right-of-way line, and shall be permitted otherwise only when approved by the Community Development Director.
- I. There shall be no physical connection between a public or private potable water supply system and a sewer which will permit the passage of any sewage or polluted water into the potable supply.
  
- J. A minimum horizontal distance of ten (10) feet shall be maintained between parallel water and sewer mains. The sewer shall be constructed of ductile iron pipe or encased in concrete for a distance of ten (10) feet in each direction from the crossing, measured perpendicularly to the water lines. These requirements are not applicable when the water main is at least three (3) feet above the sewer line.



### 9.18 Utilities

- 9.18.1 All utility facilities, including but not limited to gas, electric power, telephone, and television cables, shall be located underground throughout the land division. The costs associated to the installation of all utilities shall be the responsibility of the developer. Wherever existing facilities are located above ground, they shall either be removed and/or placed underground at the cost of the developer. When possible all utility facilities should be located within a public utility easement (PUE). Utilities may be located in the dedicated street right-of-way with prior approval of the Community Development Director. All new subdivisions shall provide a minimum ten foot (10') wide PUE outside of, but continuously adjacent to all public right-of-ways.
- 9.18.2 Easements centered on rear or side lot lines shall be provided for utilities, both public and private, when deemed necessary by the Planning Commission, the Community Development Director, and/or Public Works Director, or upon recommendation of the appropriate utility. Such recommendations shall be made at the prehearing conference for a subdivision or major partition, and during plat review for a minor partition. Such easements shall be a minimum of ten feet wide, five (5) feet on each side of the property line.
- 9.18.3 All utility easements shall be kept free of any building, structure, or tree in accordance with the City easement standards. If approved, fences, hedges, and other landscaping may be located within an easement, as may parking areas.

### 9.19 Dedication of Public Improvements.

- 9.19.1 Land dedicated for public purposes may be provided to the City by any of the following methods:
  - A. By dedication on the land subdivision plat, condominium plat or replat; or
  - B. By a separate dedication or donation document on the form provided by the City.

### 9.20 Maintenance of Public Improvements

- 9.20.1 The developer shall be required to maintain all improvements and provide for snow removal, sweeping and flushing on streets and walkways, until acceptance of said improvements by the City.
- 9.20.2 The developer shall be required to file a maintenance bond with the City in an amount determined by the Community Development Director and in a form satisfactory to the City Attorney, in order to assure the satisfactory condition of the required improvements for a period of one (1) year after the date of their acceptance by the City.

### 9.21 Bonding and Assurances

- 9.21.1 **Performance Guarantee for Public Improvements.** On all projects where public improvements are required, the City shall require a guarantee prior to final plat approval in order to guarantee completion of the public improvements.
- 9.21.2 **Performance Guarantee Required.** When a performance guarantee is required, the developer shall file an assurance of performance with the City supported by one of the following:
  - A. An irrevocable letter of credit executed by a financial institution authorized to transact business in the state of Oregon;
  - B. A surety bond executed by a surety company authorized to transact business in the state of Oregon which remains in force until the surety company is notified by the City in writing that it may be terminated; or
  - C. Cash.
- 9.21.3 **Determination of Sum.** The assurance of performance shall be for a sum determined by the City as required to cover the cost of the improvements and repairs, including related engineering and incidental expenses.

- 9.21.4 **Itemized Improvement Estimate.** The developer shall furnish to the City an itemized improvement estimate, certified by a registered civil engineer, to assist the City in calculating the amount of the performance assurance.
- 9.21.5 **Agreement.** An agreement between the City and developer shall be recorded with the final plat. The agreement may be prepared by the City or prepared by the applicant as a letter. It shall not be valid until it is signed and dated by both the applicant and City. The agreement shall contain all of the following:
- A. The period within which all required improvements and repairs shall be completed;
  - B. A provision that if work is not completed within the period specified, the City may complete the work and recover the full cost and expenses from the applicant;
  - C. The improvement fees and deposits that are required;
  - D. (Optional) A provision for the construction of the improvements in stages and for the extension of time under specific conditions therein stated in the contract.
- 9.21.6 Any and all right-of-way and public improvements proposed for dedication to the public shall be constructed in accordance with an approved tentative plat, construction plans and/or other adopted standards and any applicable conditions of approval.
- 9.21.7 Any required landscaping shall be installed prior to issuance of occupancy permits, unless security equal to the cost of the landscaping as determined by the City or a qualified landscape architect is filed with the City assuring such installation within six months after occupancy. If the installation of the landscaping is not completed within the six-month period, the security may be used by the City to complete the installation.
- 9.21.8 All improvements, new right-of-way and other public infrastructure, including receipt of staff approved as-builts, shall be completed prior to acceptance by the City; otherwise, all public improvements will remain under the ownership of the developer with notification sent to the entity providing assurance.
- 9.21.9 Final acceptance of all improvements shall be submitted to the City Council for adoption by Resolution.
- 9.21.10 Concurrent with acceptance of any new infrastructure, the Resolution shall authorize staff to notify the provider of assurance that applicable constructions bond(s) have been released.
- 9.21.11 **Termination of Performance Guarantee.** The developer shall not cause termination of nor allow expiration of the guarantee without having first secured written authorization from the City.
- 9.21.12 **When Developer Fails to Perform.** In the event the developer fails to carry out all provisions of the agreement and the City has un-reimbursed costs or expenses resulting from such failure, the City shall call on the bond, cash deposit or letter of credit for reimbursement.

### 10.03 Land Division Classifications

- 10.03.1 Under Oregon Revised Statutes, Chapter 92, land divisions are classified as one of two types:
- A. Partition (parent parcel into no more than three individual parcels in a calendar year)
  - B. Subdivision (parent parcel into more than three individual lots in a calendar year)

### 10.04 General Requirements

- 10.04.1 **Land Division Approval through Two-step Process.** Applications for subdivision, partition or replat approval shall be processed by means of a tentative plat evaluation and a final plat evaluation, according to the following two steps:
- A. The tentative plat must be approved before the final plat can be submitted for consideration; and
  - B. The final plat must include all conditions of approval of the tentative plat.
- 10.04.2 **Compliance with ORS Chapter 92.** All subdivision, partition or replat proposals shall conform to state regulations in Oregon Revised Statute (ORS) Chapter 92, Subdivisions and Partitions.
- 10.04.3 **Future Re-division Plan.** When subdividing, partitioning or replating tracts into large lots (i.e., greater than two times or 200 percent the minimum lot size required in the underlying zone), the City shall require that the lots be of such size, shape, and orientation as to facilitate future re-division in accordance with the requirements of the zone. A re-division plan shall be submitted for large lots identifying:
- A. Potential future lot division(s), consistent with the density and lot size standards of the zone;
  - B. Potential street right-of-way alignments to serve future development of the property and connect to adjacent properties, including existing or planned rights-of-way;
  - C. A disclaimer that the plan is a conceptual plan intended to show potential future development. It shall not be binding on the City or property owners, except as may be required through conditions of land division approval. For example, dedication and improvement of rights-of-way within the future plan area may be required to provide needed secondary access and

circulation.

- 10.04.4 Lot Size Averaging. Single family residential lot sizes may be averaged to allow lots less than the minimum lot size in Residential districts, provided all lots can show an adequate building envelope.
- 10.04.5 Temporary Sales Office. A sales office in conjunction with a subdivision may be located in an approved model home.
- 10.04.6 Flood Damage. All land divisions shall be designed to minimize the risk of flood damage. No new building lots shall be created entirely within a floodway. All new lots shall be buildable without requiring development within the floodway and, where possible, allow building outside of the flood fringe. Development in a 100-year flood plain shall comply with the National Flood Insurance Program and State Building Code requirements, including elevating structures above the base flood elevation.
- 10.04.7 Utilities. All lots created through land division shall have adequate public utilities and facilities such as water, sewer, gas and electric. Utilities shall be located and constructed to prevent or minimize flood damage, and to avoid impairment of the system and contamination from them during flooding.
- 10.04.8 Drainage. All subdivision and partition proposals shall have adequate surface water drainage facilities that reduce exposure to flood damage and improve water quality. Water quality or quantity control improvements may be required.
- 10.04.9 Preservation of Natural Features. In all subdivisions and partitions, due regard shall be shown for all natural features such as natural vegetation, water courses, historical sites and structures, and similar community assets which, if preserved and maintained in perpetuity, will add, in the opinion of the Planning Commission, attractiveness and value to the area and the City as a whole.
- 10.04.10 Floodplain, Park, and Open Space Dedications. Where land filling and/or development is allowed within or adjacent to regulatory flood plain and the Comprehensive Plan designates the subject flood plain for park, open space, or trail use, the City may require the dedication of sufficient open land area for a greenway and/or trail adjoining or within the flood plain for transportation, storm drainage/water quality, or park purposes in the public interest. When practicable, this area shall include portions at a suitable elevation for the construction of a multi-use pathway in accordance with the City's adopted trails plan or pedestrian and bikeway plans, as applicable.
- 10.04.11 Unsuitable Lands. Land which the Planning Commission finds to be unsuitable for land division or development due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements, or other features which will be harmful to the safety, health and general welfare of the present or future inhabitants of the land division and/or its surrounding areas, shall not be subdivided or partitioned unless adequate methods are formulated by the developer and approved by the Planning Commission, upon recommendation of the Public Works Director, to solve the problems created by unsuitable land conditions. Such unsuitable land shall be reserved for uses that do not involve such danger.
- 10.04.12 Water Bodies. If a tract being subdivided or partitioned contains a water body or portion thereof, the responsibility for safe maintenance of the water body shall be that of the abutting property owners. Where such a watercourse separates the buildable area of a lot or parcel from the street by which it has access, provisions shall be made for installation of a bridge, culvert or other structure of a design approved by the Public Works Director.
- 10.04.13 Naming of Subdivisions and Partitions. The proposed name of a Tentative Plat or final plat of a subdivision shall not duplicate, be similar to, or too closely approximate phonetically, the name of any other subdivision in the county. The Planning Commission shall have final authority to determine the name of the land division at the time of Tentative Plat approval. If a partition name is selected by the developer, it shall conform to all the requirements of a subdivision name.
- 10.04.14 Conditional Approvals. Regulation of the subdivision of land, and the attachment of reasonable conditions to land divisions is an exercise of valid powers delegated by the state of Oregon to the City. The developer has the duty of compliance with reasonable conditions established by the Planning Commission for design, dedication, improvements, and restrictive usage of land so as to conform to the Comprehensive Plan.
- 10.04.15 Conformance to Applicable Rules and Regulations. In addition to the requirements established in this Ordinance, all subdivisions, partitions and replats shall comply with the following laws, rules, and regulations:
- A. All applicable statutory provisions;
  - B. The Structural Code, Fire Code, and all other applicable laws of the City;
  - C. The Comprehensive Plan, official map, public utilities plan and capital improvements program, including all streets, drainage systems, and parks shown on the official map or Comprehensive Plan as adopted;
  - D. The special requirements of these regulations and any rules of county and state agencies, such as the State Department of Transportation (if any part of the subdivision or partition were to abut a state highway);
  - E. The standards and regulations adopted by the Public Works Director and all boards, commissions, agencies and officials of the City of Pendleton;
  - F. All pertinent standards contained within the planning guides published by any state or regional planning agency;
  - G. The Transportation System Plan.

- H. If the owner places restrictions on any of the land contained in the land division greater than those required by this ordinance, such restrictions or reference thereto may be required to be indicated on the plat, or the Planning Commission may require that restrictive covenants be recorded with the Umatilla County Office of County Records in a form approved by the City Attorney. Such restrictions shall not be the enforcement responsibility of the City of Pendleton.

#### 10.04.16 Sale of Land, Issuance of Permits.

- A. Approval of a final plat in accordance with these regulations and the filing of said plat with the Umatilla County Clerk is required before any owner, or agent of the owner, of any lot or parcel of land located in a proposed subdivision or partition shall transfer or sell any such lot or parcel. No person shall sell any lot in any subdivision or convey any interest in a parcel in any partition by reference to or exhibition or other use of a plat of such subdivision or partition before the plat for such subdivision or partition has been so recorded, pursuant to the standards contained in ORS Chapter 92.
- B. The description of any lot or parcel of land, by the use of metes and bounds descriptions for the purpose of sale, transfer, or lease with the intent of evading these regulations shall not be permitted. All such described land divisions shall be subject to all of the requirements contained in this Ordinance.
- C. A building permit shall be withheld for the construction of any building or structure located on a lot or parcel of a subdivision or partition sold in violation of this Ordinance.
- D. In a subdivision or partition, no approval of occupancy for any building in the land division shall be issued prior to the completion of the public improvements required, and their acceptance by the City.
- E. No building permit or certificate of occupancy shall be granted or issued if a developer or his authorized agent shall have violated any federal, state, or local law pertaining to consumer protection of real estate land sales, promotions, or practices, or any applicable conflict of interest legislation with respect to the lot or parcel which is the subject of the permit or certificate, until so ordered by a court of competent jurisdiction.

### 10.05 Subdivisions, Partitions and Replats

#### 10.05.1 Pre-Application Conference.

- A. Purpose. Due to the technical data required for the consideration of a subdivision or partition tentative plat, and to inform the developer of the requirements of public and private agencies affected by the proposed development, after the filing of an application for tentative plat approval, a pre-application conference shall be held with the developer and/or his agent meeting with City Staff and representatives of other public and private agencies affected by the proposed development. Said conference shall be held at a time and place convenient to all participants.
- B. Study of Initial Tentative Plat. After receipt of the initial tentative plat, the City shall transmit copies of the plat to appropriate officials or agencies of the City, county, school district and special districts or other bodies applicable under any state or federal law. The City shall request that all officials and agencies requested to comment submit their written report prior to the pre-hearing conference or transmit their report verbally at the conference.
- C. Scheduling of Pre-application Conference. Within ten (10) days after receipt of the application for tentative plat approval, the Department of Planning and Building shall, after consultation with the parties concerned, notify the applicant and other affected parties of the time and place of the pre-hearing conference. The conference will be held within fifteen (15) days after receipt of the application.
- D. Pre-application Conference. At this conference, representatives of the City and other public and private agencies affected by the proposed land division may transmit, either in writing or verbally, such information and make such recommendations to the developer as they deem desirable for the benefit of the developer in preparing the tentative plat. The conference shall include on its agenda the requirements of this Ordinance. Reasonable attention shall be given to the arrangement, location and width of streets, their relation to the topography of the land, natural features, open space and school requirements, sewage disposal, drainage, lot or parcel sizes and arrangement, the further development of adjoining lands as yet not subdivided or partitioned, the requirements of the Comprehensive Plan and official map.
- E. Report of Pre-application Conference. Within ten (10) days after the pre-application conference, the City shall give written notice to the developer or his agent of the specific changes or additions, if any, in the layout, and the character and extent of required improvements and dedications or reservations deemed necessary for approval of the proposed subdivision or major partition. The report concerning the pre-hearing conference shall be presented to the Planning Commission at the time it considers the tentative plat.

#### 10.05.2 Tentative Plat Procedure.

- A. Purpose. The process of tentative plat approval is intended to present for evaluation:
1. The plat documents and statements submitted by the developer or his agent concerning the plan for the proposed development;
  2. The report of the pre-hearing conference;
  3. Additional reports or statements of public officials or agencies affected by the proposed land division;
  4. The testimony of all citizens who wish to comment upon the proposed land division;
  5. The staff report of the Planning Department and other City officials concerning the tentative plat.
- B. Application Procedure and Requirements. Prior to proceeding to application for final plat approval, the developer of a subdivision or major partition shall file an application for approval of a tentative plat. The application shall:
1. Be made on forms available at the Community Development Department;

2. Include all the land which the applicant proposes to divide and any abutting properties under the same ownership;
  3. Be accompanied by a statement of the intended method of developing the proposed land division, indicating:
    - a. If the land will be developed in one or more stages or phases;
    - b. If the lots or parcels, in whole or in part, will be sold to additional contractors for the construction of structures or if the contracting will be undertaken in whole or in part by the applicant for tentative plat approval.
- C. Information Required on the Tentative Plat. The tentative plat shall be prepared by an Oregon licensed Surveyor or Engineer. All sheets shall be numbered in sequence and the following shall be shown on all documents:
1. General Information.
    - a. The proposed name of the land division;
    - b. The name and address of the owner or owners, land divider, engineer, and/or surveyor and land planner;
    - c. Appropriate identification clearly stating the map is a tentative plat;
    - d. The date, north arrow, and scale of the drawing.
  2. Vicinity Map. A vicinity map shall be provided and shall specify:
    - a. All existing subdivisions, partitions, streets and tract lines of acreage land parcels within 1500 feet of the proposed land division;
    - b. The manner in which streets and alleys in the proposed land division will connect with existing and proposed streets and alleys in neighboring land divisions or undeveloped property to produce the most advantageous development of the entire area.
  3. Detail Map. The Tentative plat shall be drawn at a scale of one inch equals 100 feet. The size of the plat shall be either 18 inches by 24 inches or 24 inches by 36 inches. The following information shall be shown on the detailed map:
    - a. The location of the proposed land division by section, township, range, and a legal description sufficient to define the location and boundaries of the property;
    - b. The area of the proposed land division;
    - c. The date of the last property survey;
    - d. The number of lots or parcels.
  4. Existing Conditions. The detailed map shall show the following existing conditions:
    - a. The location, widths, and names of all existing and platted or mapped streets or other public rights-of-way within or adjacent to the proposed land division, railroad rights-of-way and other features such as section lines and corners, political subdivision or corporate lines, monuments and easements;
    - b. The location in the adjoining streets or property of existing sewer and water mains, culverts and drain pipes, electrical conduits or lines proposed to be used or connected to the property to be subdivided. The invert elevations of sewers, culverts and drains shall be shown at points of proposed connection;
    - c. Contour lines having the following minimum intervals:
      - Two foot contour intervals for ground slopes less than ten percent;
      - Five foot contour intervals for ground slopes more than ten percent.
 The elevations of all control points which are used to determine the contours shall be indicated and must be to U. S. Geodetic Survey Datum, if within a one-mile radius of an existing monument. If datum is not within a one-mile radius, datum shall be that approved by the City Engineer.
    - d. The approximate location of area subject to inundation or storm water overflow with the approximate high water elevation. Surface water drainage patterns shall be shown for every lot, parcel and block;
    - e. Location, width, direction and flow of all water courses;
    - f. Natural features, such as rock outcroppings, marshes, wooded areas and existing trees;
    - g. Existing use or uses of the property and adjacent property, including the location of existing structures to remain on the property or immediately adjacent to the property after final approval;
    - h. The land use zoning on and adjacent to the tract;
    - i. The location of at least one temporary bench mark within the plat boundaries.
  5. Proposed Plat of Land Division. The following information shall be included on the tentative plat:
    - a. The location, width, names, approximate grades and radii of curves of proposed streets;
    - b. The locations, widths and purposes of all easements on the land proposed to be divided and on abutting property;
    - c. The location, area, and approximate dimensions of proposed lots or parcels and the proposed lot or parcel and block numbers;
    - d. The proposed land use, including any lots or areas allocated for multi-family dwellings, shopping or commercial facilities, churches, industrial uses, parks, schools, playgrounds, public or semi-public use;
    - e. Applicants shall also submit a circulation plan which includes the subject site and all adjacent parcels. Proposed streets must be shown to the point of connection with the existing street system within six hundred (600) feet. The circulation plan shall demonstrate feasibility with development of adjacent properties, or may revise the off-site portion of prior approved plans. Circulation plans shall also be consistent with the Transportation System Plan Map, as amended.  
Circulation plans shall be schematic in nature and include sufficient off-site and on-site conditions to evaluate it against the review criteria. It shall include:
      - Proposed project boundary;
      - Existing and proposed streets (from TSPM), transit routes and facilities, and other pedestrian/bicycle destinations within six hundred (600) feet of the project boundary;



- Site access points for vehicles, pedestrians, bicycles, and transit; and
  - Contours showing changes in elevation.
  - Sensitive lands (wetlands, shorelines, geologic hazard, floodplain, etc.)
6. Explanatory Information. The following information shall be included with the tentative plat, but may be submitted in the form of statements in lieu of being drawn on the detailed map:
    - a. Proposed deed restrictions, if any, in outline form;
    - b. The location within the land division and in the adjoining street and properties of existing sewer and water mains, culverts, drain pipes and electrical lines as well as the provisions to be made for water supply, sewage disposal and drainage and flood control.
  7. Supplementary Proposals with Tentative Plat. Any of the following may be required by the Community Development Department to supplement the plat of land division:
    - a. Approximate center-line profiles with extensions for a reasonable distance beyond the limits of the proposed land division showing the finished grade of streets and the nature and extent of street construction;
    - b. A plan for domestic water supply lines and related water service facilities;
    - c. Proposals for sewage disposal, storm water drainage and flood control, including profiles of proposed drainage ways;
    - d. If lot areas are to be graded, a plan showing the nature of cuts and fills and information on the character of the soil;
    - e. Proposals for other improvements such as electric utilities, pedestrian walkways, bikeways, etc.

#### 10.05.3 Study of Tentative Plat.

- A. The tentative plat, upon being submitted to the City Planner and distributed to appropriate departments and agencies for their review and comment, will be checked against the Comprehensive Plan and City Ordinances; and if conforming, may be processed pursuant to the standards for a Type II action contained in Article 13.
- B. If the proposed tentative plat is a residential subdivision containing ten or more lots, if it does not appear to comply with the Comprehensive Plan, or if it appears to comply only if conditions are imposed, the application shall be submitted to the Planning Commission under the standards for a Type III action contained in Article 13. The Planning Commission may require such dedications of land and easements and may specify such conditions and modifications to appear on the final plat as are deemed necessary to achieve compliance with the Comprehensive Plan and City Ordinance.

### Type III Procedure (Quasi-Judicial)

13.04.1 **Pre-application Conference.** A pre-application conference is not required for Type III applications but is highly recommended.

13.04.2 **Neighborhood Meetings.** There is no legal requirement to conduct neighbor-developer meetings. However, applicants are encouraged to meet with adjacent property owners and neighborhood representatives prior to submitting their application to the City in order to solicit input and exchange information about the proposed development. The City can provide the same list used for mailed notices to the applicant if he/she wishes to provide additional notification and/or schedule a community meeting.

#### 13.04.3 Application Requirements.

- A. Application forms. Type III applications shall be made on forms provided by the Community Development Department; if a Type II application is referred to a Type III hearing, either voluntarily by the applicant or staff, or upon appeal, no new application is required.
- B. Submittal information. When a Type III application is required, it shall:
  1. Include the information requested on the application form;
  2. Be filed with a narrative statement that explains how the application satisfies each and all of the relevant criteria and standards in sufficient detail for review and decision-making;
  3. Be accompanied by the required fee.

#### 13.04.4 Notice of Hearing.

- A. Notice of a Type III application hearing or Type II appeal hearing shall be given by the City Planning Official or designee in the following manner:
  1. At least 20 days before the hearing date, notice shall be mailed to:
    - a. The applicant and all owners or contract purchasers of record of the property that is the subject of the application;
    - b. All property owners of record within 100 feet of the site;
    - c. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City. The City may notify other affected agencies. The City shall notify the road authority, and rail authority and owner, when there is a proposed development abutting or affecting their transportation facility and allow the agency to review, comment on, and suggest conditions of approval for the application.
    - d. Owners of airports in the vicinity shall be notified of a proposed zone change in accordance with ORS 227.175;
    - e. Any neighborhood or community organization recognized by the City Council and whose boundaries include the property proposed for development;
    - f. Any person who submits a written request to receive notice;
    - g. For appeals, the appellant and all persons who provided testimony in the original decision; and

- h. For a land use district change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.
- 2. The City Planning Official or designee shall have an affidavit of notice be prepared and made a part of the file. The affidavit shall state the date that the notice was mailed to the persons who must receive notice.
- 3. Notice of the hearing shall be printed in a newspaper of general circulation in the City at least 7 business days before the hearing. The newspaper's affidavit of publication of the notice shall be made part of the administrative record.
- B. Content of Notice. Notice of appeal of a Type II Administrative decision or notice of a Type III hearing to be mailed and published per Subsection 1 above shall contain the following information:
  - C. The nature of the application and the proposed land use or uses that could be authorized for the property;
  - D. The applicable criteria and standards from the development code(s) that apply to the application;
  - E. The street address or other easily understood geographical reference to the subject property;
  - F. The date, time, and location of the public hearing;
  - G. A statement that the failure to raise an issue in person, or by letter at the hearing, or failure to provide statements or evidence sufficient to afford the decision-maker an opportunity to respond to the issue, means that an appeal based on that issue cannot be filed with the State Land Use Board of Appeals;
  - H. The name of a City representative to contact and the telephone number where additional information on the application may be obtained;
  - I. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards can be reviewed at Pendleton City Hall at no cost and that copies shall be provided at a reasonable cost;
  - J. A statement that a copy of the City's staff report and recommendation to the hearings body shall be available for review at no cost at least seven days before the hearing, and that a copy shall be provided on request at a reasonable cost;
  - K. A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings; and
  - L. The following notice: "Notice to mortgagee, lien holder, vendor, or seller: The City of Pendleton Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."

#### 13.04.5 Conduct of the Public Hearing.

- A. At the commencement of the hearing, the hearings body shall state to those in attendance:
  - 1. The applicable approval criteria and standards that apply to the application or appeal;
  - 2. Testimony and evidence shall concern the approval criteria described in the staff report, or other criteria in the comprehensive plan or land use regulations that the person testifying believes to apply to the decision;
  - 3. An issue which may be the basis for an appeal to the Land Use Board of Appeals shall be raised in person or by letter not later than the close of the record or following the final evidentiary hearing on the proposal before the local government. Failure to raise an issue with sufficient specificity to afford the decision maker and the parties an opportunity to respond to the issue precludes appeal to LUBA based on that issue;
  - 4. Before the conclusion of the initial evidentiary hearing, any participant may ask the Planning Commission for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing. The hearings body shall grant the request by scheduling a date to finish the hearing (a continuance), or by leaving the record open for additional written evidence or testimony per subsection B.
- B. If the Planning Commission grants a continuance, the completion of the hearing shall be continued to a date, time, and place at least seven days after the date of the first evidentiary hearing. An opportunity shall be provided at the second hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the second hearing, any person may request, before the conclusion of the second hearing, that the record be left open for at least seven days, so that they can submit additional written evidence or testimony in response to the new written evidence;
- C. If the Planning Commission leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven days after the hearing. Any participant may ask the City in writing for an opportunity to respond to new evidence submitted during the period that the record was left open. If such a request is filed, the Planning Commission shall reopen the record.
  - 1. When the Planning Commission reopens the record to admit new evidence or testimony, any person may raise new issues that relate to that new evidence or testimony;
  - 2. An extension of the hearing or record granted pursuant to this Section is subject to the limitations of ORS 227.178 ("120-day rule"), unless the continuance or extension is requested or agreed to by the applicant;
  - 3. If requested by the applicant, the City shall allow the applicant at least seven days after the record is closed to all other persons to submit final written arguments in support of the application, unless the applicant expressly waives this right. The applicant's final submittal shall be part of the record but shall not include any new evidence;
  - 4. The record shall contain all testimony and evidence that is submitted to the City and that the hearings body has not rejected;
  - 5. In making its decision, the hearings body may take notice of facts not in the hearing record (e.g., local, state, or federal regulations; previous city decisions; case law; staff reports). The review authority must announce its intention to take notice of such facts in its deliberations, and allow persons who previously participated in the hearing to request the hearing record be reopened, if necessary, to present evidence concerning the noticed facts;
  - 6. The review authority shall retain custody of the record until the City issues a final decision.

- D. Participants in the appeal of a Type II Administrative decision or participants in a Type III hearing are entitled to an impartial review authority as free from potential conflicts of interest and pre-hearing ex parte contacts as reasonably possible. However, the public has a countervailing right of free access to public officials. Therefore:
1. At the beginning of the public hearing, hearings body members shall disclose the substance of any pre-hearing ex parte contacts (as defined below) concerning the application or appeal. He or she shall state whether the contact has impaired their impartiality or their ability to vote on the matter and shall participate or abstain accordingly;
  2. A member of the hearings body shall not participate in any proceeding in which they, or any of the following, has a direct or substantial financial interest: their spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner, any business in which they are then serving or have served within the previous two years, or any business with which they are negotiating for or have an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the hearing where the action is being taken;
  3. Disqualification of a member of the hearings body due to contacts or conflict may be ordered by a majority of the members present and voting. The person who is the subject of the motion may not vote on the motion to disqualify;
  4. If all members of the Planning Commission abstain or are disqualified, the City Council shall be the hearing body. If all members of the City Council abstain or are disqualified, a quorum of those members present who declare their reasons for abstention or disqualification shall be re-qualified to make a decision;
  5. Any member of the public may raise conflict of interest issues prior to or during the hearing, to which the member of the hearings body shall reply in accordance with this Section.
- E. Ex parte communications.
1. Members of the hearings body shall not:
    - a. Communicate directly or indirectly with any applicant, appellant, other party to the proceedings, or representative of a party about any issue involved in a hearing without giving notice per subsection D above;
    - b. Take official notice of any communication, report, or other materials outside the record prepared by the proponents or opponents in connection with the particular case, unless all participants are given the opportunity to respond to the noticed materials.
  2. No decision or action of the hearings body shall be invalid due to ex parte contacts or bias resulting from ex parte contacts, if the person receiving contact:
    - a. Places in the record the substance of any written or oral ex parte communications concerning the decision or action; and
    - b. Makes a public announcement of the content of the communication and of all participants' right to dispute the substance of the communication made. This announcement shall be made at the first hearing following the communication during which action shall be considered or taken on the subject of the communication.
    - c. A communication between City staff and the hearings body is not considered an ex parte contact.
- F. Presenting and receiving evidence.
1. The hearings body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant or personally derogatory testimony or evidence;
  2. No oral testimony shall be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing, only as provided in subsection C;
  3. Members of the hearings body may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the beginning of the hearing and an opportunity is provided to dispute the evidence.

13.04.6 **Recess of Hearing.** The Planning Commission may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposed action. Upon recessing for this purpose, the Commission shall announce the time and date when the hearing will be resumed.

#### 13.04.7 **The Decision Process.**

1. Basis for decision. Approval or denial of an appeal of a Type II Administrative decision or of a Type III application shall be based on standards and criteria in the development code. The standards and criteria shall relate approval or denial of a discretionary development permit application to the development regulations and, when appropriate, to the comprehensive plan for the area in which the development would occur and to the development regulations and comprehensive plan for the City as a whole;
2. Findings and conclusions. Approval or denial shall be based upon the criteria and standards considered relevant to the decision. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts;
3. Form of decision. The Planning Commission shall issue a final written order containing the findings and conclusions stated in subsection B, which either approves, denies, or approves with specific conditions. The Planning Commission may also issue appropriate intermediate rulings when more than one permit or decision is required;
4. Decision-making time limits. A final order for any Type II Administrative Appeal or Type III action shall be filed with the City Planning Official or designee within ten business days after the close of the deliberation;
5. Notice of Decision. Written notice of a Type II Administrative Appeal decision or a Type III decision shall be mailed to the applicant and to all participants of record within ten business days after the hearings body decision. Failure of any person to receive mailed notice shall not invalidate the decision, provided that a good faith attempt was made to mail the notice.

6. Final Decision and Effective Date. The decision of the hearings body on any Type II appeal or any Type III application is final for purposes of appeal on the date it is mailed by the City. The decision is effective on the day after the appeal period expires. If an appeal is filed, the decision becomes effective on the day after the appeal is decided by the City Council. The notification and hearings procedures for Type III applications on appeal to the City Council shall be the same as for the initial hearing. An appeal of a land use decision to the State Land Use Board of Appeals must be filed within 21 days of the City Council's written decision or, in the case of Type I decision, within 21 days of the administrative decision date.

13.04.8 **Appeal.** A Type III decision may be appealed to the City Council as follows:

- A. Who may appeal. The following people have legal standing to appeal a Type III Decision:
1. The applicant or owner of the subject property;
  2. Any person who participated in the proceeding by submitting written comments to the Planning Commission.
  3. Any person who participated in the proceeding by providing oral testimony to the Planning Commission at the hearing(s).
  4. The City Council, acting upon the recommended action of the City Manager or upon its own motion, may order a de novo review of any lower level decision. This review shall be conducted in accordance with appeal procedures specified herein.
- B. Appeal filing procedure.
1. Notice of appeal. Any person with standing to appeal, as provided in subsection A, above, may appeal a Type III Decision by filing a Notice of Appeal according to the following procedures;
  2. Time for filing. A Notice of Appeal shall be filed with the City Planning Official or designee within 14 days of the date the Notice of Decision was mailed;
  3. Content of notice of appeal. The Notice of Appeal shall contain:
    - a. An identification of the decision being appealed, including the date of the decision;
    - b. A statement demonstrating the person filing the Notice of Appeal has standing to appeal;
    - c. A statement explaining the specific issues being raised on appeal;
    - d. If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period;
    - e. Filing fee.
- C. Scope of appeal. The appeal of a Type III Decision by a person with standing shall be a hearing de novo before the City Council. The appeal shall not be limited to the application materials, evidence and other documentation, and specific issues raised in the Planning Commission review. The City Council may allow additional evidence, testimony or argument concerning any relevant standard, criterion, condition, or issue.
- D. Appeal procedures. Type III notice, hearing procedures and decision process shall also be used for all Type III Appeals;
- E. Further Appeal. The decision of the City Council on an appeal is final and effective on the date it is mailed by the City. The City Council's decision may be appealed to the State Land Use Board of Appeals pursuant to ORS 197.805 – 197.860.

13.06 **Burden of Proof**

The following language shall be included with all decisions for Type II, III and IV actions.

The specific findings made in granting a Permit shall be factual and supported by substantial evidence. The burden of producing substantial evidence to support the requisite findings is on the applicant seeking the approval of the Permit. If no evidence is produced by the applicant concerning any of the findings, the application may be denied based upon improper or inadequate findings. All evidence produced must be recited in the findings relating to approval or denial of an application.

- A. The applicant has the burden of proof regarding all requests affecting a subject property, and the applicant recognizes that it is the sole obligation of the applicant to substantiate the request.
- B. If any administrative review, suit or action is instituted in connection with any appeal of a decision, the applicant shall be required to either (1) reimburse the City for all costs incurred in defending this action, including but not limited to attorney fees, staff costs, any materials and other related costs, or (2) notify the City that the applicant does not desire to undertake such costs and will drop its request.
- C. The applicant shall notify the City Manager within five (5) days from City's receipt of any notice of appeal by delivering a written statement to the City Manager within said five (5) days advising the City Manager whether the applicant will reimburse the City for all costs as described above or desires to drop the request.
- D. In the absence of written communication from the applicant within the allotted five (5) days the City may at its option presume the applicant desires to drop the request and the City shall have no obligation to defend the appeal.
- E. In appeals involving questions of City-wide significance, the City Council may determine to participate in part of the costs specified herein. Nothing in this condition shall affect applicant's right to retain independent counsel in making their own legal appearance upon appeal.
- F. If any suit or action, including rescission, is instituted by the applicant in connection with any controversy arising out of a request, there shall be taxed and allowed to the City as a part of the costs of the action, a reasonable amount to be fixed by the court as attorney fees in such suit or action, both at trial and upon appeal. In addition, the City may charge a fee for preparation of a written transcript, not to exceed the actual cost of preparing the transcript, up to \$500 plus one-half the actual costs over \$500.

**Article XV. Administrative Provisions**

**15.01 Policy of Nondiscrimination**

Age, gender/race or physical disability shall not be an adverse consideration in making a land use decision as defined in Oregon Law.

**15.02 Duty of Enforcement**

It shall be the duty of the City Manager to see that this Ordinance is enforced. No permit for the construction or alteration of any building or part thereof shall be issued unless the plans, specifications and intended use of such building conform in all respects with the provisions of this Ordinance.

**15.03 Compliance with Ordinance Provisions**

- 15.03.1 The provisions of this Ordinance shall be deemed minimum requirements for the preservation of the public safety, health, convenience, comfort, prosperity and general welfare of the people of the City of Pendleton.
- 15.03.2 A lot may be used and a structure or part of a structure may be constructed, reconstructed, altered, occupied or used only as this Ordinance permits.
- 15.03.3 No lot area, yard or other open space existing on or after the effective date of this Ordinance shall be reduced below the minimum required for it by this Ordinance.
- 15.03.4 No lot area, yard or other open space which is required by this Ordinance for one use shall be used as the required lot area, yard, or open space for another use.
- 15.03.5 Development shall not commence until the applicant has received all of the appropriate land use and development permits (including but not limited to a Development Permit and building permits).

**15.04 Applicability of Zoning Regulations**

- 15.04.1 Private agreements. The zoning regulations are not intended to abrogate, annul, or impair any easement, covenant or other agreement between parties, except that where the zoning regulations impose a restriction or higher standard than that required by such agreement the zoning regulations shall control.
- 15.04.2 The boundaries of the zone are hereby established as shown on the official Zoning map of the City of Pendleton, Oregon, which accompanies this Ordinance and is on file in the office of the City Recorder.
- 15.04.3 Unless otherwise shown on the zoning map of the City, the boundaries of the zone are lot lines, center lines of streets and alleys, railroad right-of-way lines or corporate limit lines as they existed at the time of the enactment of this Ordinance. If a zone boundary as shown on the map divides a lot between zones, the entire lot shall be deemed to be in the zone in which the greater area of the lot is.
- 15.04.4 The schedule of permitted uses cannot include all uses that may be a good fit for a particular zone of the City. A proposed use may be reviewed as a conditional use where the Director determines that the proposed use is consistent with the Comprehensive Land Use Plan and with other uses allowable within the subject district due to similar characteristics.

**15.05 Permit to Run with the Land**

A Permit granted pursuant to the provisions of this Section shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the use permit application, except as otherwise provided in this Section.

**15.06 Limitations**

No building or other permit shall be issued in any case where a Permit is required by the terms of this ordinance until after the applicable appeal period of the decision. An appeal from an action of the Planning Commission shall automatically stay the issuance of a building or other permit until such appeal has been completed. In the event the council acts to grant said Permit, the building permit may be issued immediately thereafter, in accordance with such terms and conditions as may have been imposed on said permit.

**15.07 Permit Expiration**

Any permit granted pursuant to this Ordinance shall become void two (2) years after approval, unless within that time the required building construction, alteration or enlargement has been commenced and diligently pursued or, if no such construction, alteration or enlargement is required, unless the permitted activity is being regularly conducted on the premises.

**15.08 Permit Extension**

The Planning Director may extend a permit for one additional period of two (2) years, subject to the following requirements:

- A. The request is made in writing; and
- B. The request is received prior to permit expiration.

It is the responsibility of the permit holder to submit a request for extension. No more than one such extension may be granted. Development standards that apply at time of approval shall remain valid for the original term of approval, and shall not exceed four years from the original date of approval in the event of an extension.

**15.09 Vested Rights**

Land use approvals granted under this Ordinance shall be effective only when the exercise of the right granted therein is commenced within the approval period of that decision. In case such right has not been exercised or extension obtained the approval shall be void. Nothing contained in this Ordinance shall:



- A. Require any change in the plans, construction, alteration or designated use of a structure on which construction has physically, lawfully and substantially commenced prior to the adoption of this Ordinance, provided the structure, if non-conforming or intended for a non-conforming use, is completed and in use within two (2) years from the time construction was commenced.
- B. Be construed to limit the sale, transfer, or other conveyance of property on which exists a non-conforming building, structure or use, so long as such sale, transfer or other conveyance does not otherwise violate the provisions of this Ordinance.

#### 15.10 **Illegal Occupancy**

Any use of a premise or building which deviates from or violates any of the provisions of this Ordinance shall be termed an illegal occupancy and the person or persons responsible therefore shall be subject to the penalties herein provided.

No final approval or certificate of occupancy shall be issued by the City until such time as the applicant has complied with all requirements of this Ordinance. Final approval or certificate of occupancy shall not be issued if there is any major deviation from an approved land use action, including a Development Permit.

#### 15.11 **Contract Purchasers Deemed Owners**

A person or persons purchasing property under contract, for the purposes of this Ordinance, shall be deemed to be the owner or owners of the property covered by the contract; the City Planning Commission or the City Council may require satisfactory evidence of such contract of purchase.

#### 15.12 **Consent to Annexation Required**

Pursuant to the Joint Management Agreement with Umatilla County, any land use action on land in the Joint Management Area (lands inside the Pendleton Urban Growth Boundary but not inside the Pendleton city limits) is subject to all City of Pendleton criteria and standards. However, such properties do not pay City taxes, rely on Umatilla County as the primary response for police and fire service, and are also subject to a surcharge for water and sewer service. In order to reduce inter-jurisdictional issues, all land use actions inside the JMA shall carry, as a condition of approval, that:

- A. If the property abuts the City limits of the City of Pendleton, property owner shall provide a consent to the City for annexation; or
- B. If the property is inside the Urban Growth Boundary but does not abut the City limits of the City of Pendleton, property owner shall provide a consent to the City for annexation at such time as the property does abut the city limits.

#### 15.13 **Resubmittal of Application Following Denial**

An application which has been denied or an application which was denied and which on appeal or review has not been reversed by a higher authority, including the Land Use Board of Appeals, the Land Conservation and Development Commission or the courts, will be rejected for the same or a substantially similar proposal or for the same or substantially similar action for a period of at least 12 months from the date the final city action is made denying the application unless there is substantial change in the facts, a change in the Development Code, or a change in city policy which would change the outcome.

#### 15.14 **Violation of Conditions**

The Planning Commission, on its own motion, may revoke any Permit for noncompliance with conditions set forth in the granting of said permit after first providing notice and holding a public hearing pursuant to the standards for a Type III application. The foregoing shall not be the exclusive remedy, and it shall be unlawful and punishable hereunder for any person to violate any condition imposed by a Permit.

#### 15.15 **Agreements for Conditional Approvals**

Conditions imposed upon rezoning approvals, discretionary permits, land divisions, or any other authorizations to applicants pursuant to this Ordinance, may be incorporated into an agreement which shall be binding on the applicant and the applicant's successors, heirs and assigns as a continuing obligation running with the property which is the subject of such authorization. The Mayor and City Recorder are hereby authorized to execute such agreements when approved by the Planning Commission in the case of discretionary permits, or by the City Council in the case of rezoning ordinances, appeals on discretionary permits, or other authorizations requiring Council action.

Where the conditions imposed by any provision of this Ordinance are less restrictive than comparable conditions imposed by any other provisions of this Ordinance or of any other ordinance, the provisions which are more restrictive shall govern.

#### 15.16 **Interpretation**

The City reserves the right to interpret its own ordinances. Requests for a formal Interpretation shall be processed according to the standards contained in Article 11.

#### 15.17 **Severability**

The individual Sections of this Ordinance are severable. The invalidity of a Section shall not affect the validity of the remaining Sections.

#### 15.18 **Conflict with Public and Private Provisions**

- 15.18.1 These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of the law. Where any provision of this Ordinance imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule or regulations, or other provision of law, whichever provisions impose higher standards shall govern.
- 15.18.2 This Ordinance is not intended to abrogate any easement, covenant or any other private agreement or restriction, which shall be enforced by the parties of said provision, not the City.

#### 15.19 Enforcement of Private Agreements

The City of Pendleton is not a party to and does not administer, monitor or enforce provisions contained in covenants, conditions, restrictions, easements, and other private agreements.

#### 15.20 Unlawful Construction or Use a Nuisance

The location, erection, construction, maintenance, repair, alteration or use of a building or other structure, or the division, or use of land, in violation of the terms of this Ordinance is hereby declared to be a nuisance, under the provisions of the Nuisance Ordinance (No. 2422).

#### 15.21 Remedies for Unlawful Structures

In case a building or other structure is, or is proposed to be located, constructed, maintained, repaired, altered or used, or any land is, or is proposed to be, used in violation of this Ordinance, the City Council or any person whose interest in real property in the City is, or may be affected by the violation, may, in addition to other remedies provided by law, institute proceedings for an injunction, mandamus, abatement, or other appropriate action or suit to prevent, temporarily or permanently enjoin, abate, or remove the unlawful location, construction, maintenance, repair, alteration, or use.

#### 15.22 Violations and Penalties

- A. A violation of this Ordinance shall be punishable by a fine not to exceed Five Hundred and No/100 (\$500.00) Dollars.
- B. Every full day during which an activity continues to be conducted in violation of this Ordinance shall be considered a separate offense.
- C. Offenses under this Section shall be tried in the Municipal Court as a violation and not as a crime. As a violation there is no right to jury trial or court appointed counsel.
- D. Confiscation. Any building or structure erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted, demolished, equipped, used, occupied or maintained in violation of this Ordinance may be confiscated by the City and, may be disposed of as provided by applicable State law or City ordinance.
- E. Additional Remedies.
  1. In addition to the penalties provided in this Ordinance, the City may sue in a court of competent jurisdiction to obtain a judgment for a fee due under this Ordinance and to enforce collection of the judgment by execution.
  2. The City may seek an injunction to prohibit a person from erecting, constructing, enlarging, altering, repairing, moving, improving, removing, converting, demolishing, equipping, using, occupying or maintaining any building or structure without complying with this Ordinance.
  3. In an action authorized by this Section, if the City prevails, it shall recover reasonable attorney's fees to be set by the Court in addition to its costs and disbursements. These fees are recoverable at all levels of trial and appeal.
  4. Whenever a fee required by this Ordinance is not paid when due, the City Recorder shall add as a penalty to the fee an amount equal to ten (10%) percent of the fee for each month or part thereof during which the fee and accumulated penalty amounts remain unpaid. The total amount of penalties shall not exceed one hundred (100%) percent of the original fee.



# CITY OF PENDLETON

Planning Department (541) 966-0204 Fax (541) 966-0251  
500 SW Dorion Avenue, Pendleton, OR 97801

Type II Fee \$ \_\_\_\_\_

Type III Fee \$ 1745<sup>06</sup>

*with UZLH # 4/15/22*

## Land Division/Replat Application

**NOTICE TO APPLICANT:** On original application form, please print legibly using blue or black ink, or type. Applicants are advised to review the list of submittal requirements indicated on each application form prior to submitting an application. **Incomplete applications will not be acted upon or scheduled for a public hearing until the Planning Department receives all required submittal materials and fees.**

**Failure to provide complete and/or accurate information may result in delay or denial of your request.**

APPLICANT DEREK BARFUSS

Mailing address 43514 Colonial Ln Pendleton OR 97801

Phone 541-969-4510 Fax \_\_\_\_\_ Email Derek barfuss@gmail.com

Applicant's interest in property Development

Signature [Signature] Date 4/12/2022

PROPERTY OWNER Derek & Melissa Barfuss

Mailing address 43514 Colonial Ln Pendleton OR 97801

Phone 541-969-4510 Fax \_\_\_\_\_ Email Derek barfuss@gmail.com

Signature [Signature] Date 4/11/22

*If same as applicant, mark SAME. If there is more than one property owner, please attach additional sheets as necessary.*

SITE LOCATION AND DESCRIPTION Zoning R-1

Tax Map #(S) 2N32150000162 Tax Lot #(s) 00162

Tax Map #(S) \_\_\_\_\_ Tax Lot #(s) \_\_\_\_\_

Frontage street or address \_\_\_\_\_ Nearest cross street SW Punison & Tutuilla

Site size (acres or square feet) 17.28 Acres Dimensions \_\_\_\_\_

SPECIFIC REQUEST Replat  Subdivision  lots 2 parcel partition  3 parcel partition

**For partitions only:**

**Parcel 1** area \_\_\_\_\_ square feet

Setbacks: Front \_\_\_\_\_ Side \_\_\_\_\_ Side \_\_\_\_\_ Rear \_\_\_\_\_ N/A, No Structures

**Parcel 2** area \_\_\_\_\_ square feet

Setbacks: Front \_\_\_\_\_ Side \_\_\_\_\_ Side \_\_\_\_\_ Rear \_\_\_\_\_ N/A, No Structures

**Parcel 3** area \_\_\_\_\_ square feet

Setbacks: Front \_\_\_\_\_ Side \_\_\_\_\_ Side \_\_\_\_\_ Rear \_\_\_\_\_ N/A, No Structures

### OFFICE USE ONLY.

This institution is an equal opportunity provider and employer.

120 day time limit	Accepted as complete _____	Final decision by _____
DLCD 45-day notice required	Y/N Date mailed _____	Date of first hearing _____
Planning Commission hearing date	_____	Notice mailed _____
Notice to media	Publication date _____	Emailed _____
Notice of Decision	Date mailed _____	Appeal deadline _____
Associated applications	_____	_____

**LIVESTOCK** Please list the number and type of all livestock currently present on the property (horses, cattle, sheep, goats, chickens, etc. Do not include domestic pets such as cats and dogs) NONE

**BUSINESSES** Are any businesses operating on the property? If yes, please describe. NO

All businesses operating within the City of Pendleton must obtain a Business License.

**STRUCTURES** Please indicate the type and number of structures currently on the site, and proposed for construction

Single Family Residence(s) X Multi Family Residence(s) \_\_\_\_\_  
Manufactured Home(s) \_\_\_\_\_ Travel Trailer(s) \_\_\_\_\_  
Other residential structure(s) \_\_\_\_\_ Barn/other ag building(s) \_\_\_\_\_  
Commercial building(s) \_\_\_\_\_ Industrial Building(s) \_\_\_\_\_  
Accessory buildings/structures \_\_\_\_\_ Other \_\_\_\_\_

**SERVICE PROVIDERS** Please indicate which of the following services are provided on the property

Water City of Pendleton  Well  Other/None   
Sewer City of Pendleton  Septic  Other/None   
Fire City of Pendleton  RFD  Other/None

Does the property have access to City streets? Yes  No  What and where? \_\_\_\_\_

Does the property have access to County Roads? Yes  No  What and where? \_\_\_\_\_

If the property is subject to special assessment or debt from any special districts (fire, road, etc), please provide details.  
NO

The criteria listed below relate to approval of a tentative plat only. Additional criteria apply after tentative plat approval.

**APPROVAL CRITERIA – Land Divisions. Ordinance No. 3845 – City of Pendleton Unified Development Code**

**Article III. Residential Zones**

**3.08 General Provisions for Residential Zones**

This Section sets forth development standards that apply within Residential zones. However, in designated Opportunity Areas, the dimensional standards may be modified by an approved Master Development Plan (MDP) pursuant to the Opportunity Area Subdistrict in Article 7.

3.08.1 **Density.** In all of the residential zones, the minimum and maximum residential densities shall be as shown in Table 3.1.

3.08.2 **Lot Size.** In all of the residential zones, the minimum lot sizes shall be as shown in Table 3.1.

3.08.3 **Maximum Lot Size.** The maximum lot size that may be approved administratively shall not exceed twice the minimum lot size under the corresponding zone and slope. Mapped constraints may be removed from the maximum lot size calculation.

**3.08.7 Miscellaneous Lot Provisions.**

- A. Building Lots must abut a public right of way or other public access. No residential, commercial, or industrial building shall be erected on a lot which does not abut at least one street. Where there is a residence constructed, as of the date of this Ordinance, on an interior lot not abutting on a public street, such property shall continue unaffected except that in the case of reconstruction of such a structure, as provided in Section 11.07 of this Ordinance, nothing more than a single family dwelling and accessory buildings may be constructed upon such interior lot, and then only when easements for ingress and egress are recorded.
- B. The primary access shall be via a street that is improved or will be improved to City standards prior to occupancy of any unit, unless otherwise approved by the Planning Commission.
- C. Parking, Storage or Use of Recreational Equipment. No equipment shall be used for living, employment, sleeping or housekeeping purposes, nor connected to utilities, when parked or stored on a residential lot, or in any location not approved for such use. Recreational vehicles may be used for guest accommodation for a maximum of 14 days within a three month period.
- D. Parking and Storage of Certain Vehicles. Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially used property other than in completely enclosed buildings.

## Julie Chase

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**From:** Aaron C. Hoeft <ahoeft@hydrotexlube.com>  
**Sent:** Tuesday, June 14, 2022 3:20 PM  
**To:** Julie Chase  
**Subject:** Re: Barfuss Subdivision - Lot 40

**STOP and VERIFY - This message came from outside of the City of Pendleton.**

40 is a flag stem lot with access on the cul-de-sac. The 20' stem will have 3 uses 1: driveway for lot 40, 2: permanent sidewalk for access to the cul-de-sac from Runnion, 3: emergence access incase of fire and or etc. for the subdivision.

Aaron C Hoeft  
ACH Engineering  
2404 Stateline Road  
Walla Walla, WA 99362  
509-386-3072

---

**From:** Julie Chase <Julie.Chase@ci.pendleton.or.us>  
**Sent:** Tuesday, June 14, 2022 4:33 PM  
**To:** Aaron C. Hoeft  
**Subject:** Barfuss Subdivision - Lot 40

Aaron,  
What is the plan for access to Lot 40?

Contractors: apply for and purchase all building permits online and schedule inspections 24/7 by phone, computer or smartphone via the ePermitting website at [www.BuildingPermits.Oregon.gov](http://www.BuildingPermits.Oregon.gov). Need Help with ePermitting: <https://www.oregon.gov/bcd/epermitting/howto/Pages/index.aspx>



### Julie Chase

Associate Planner

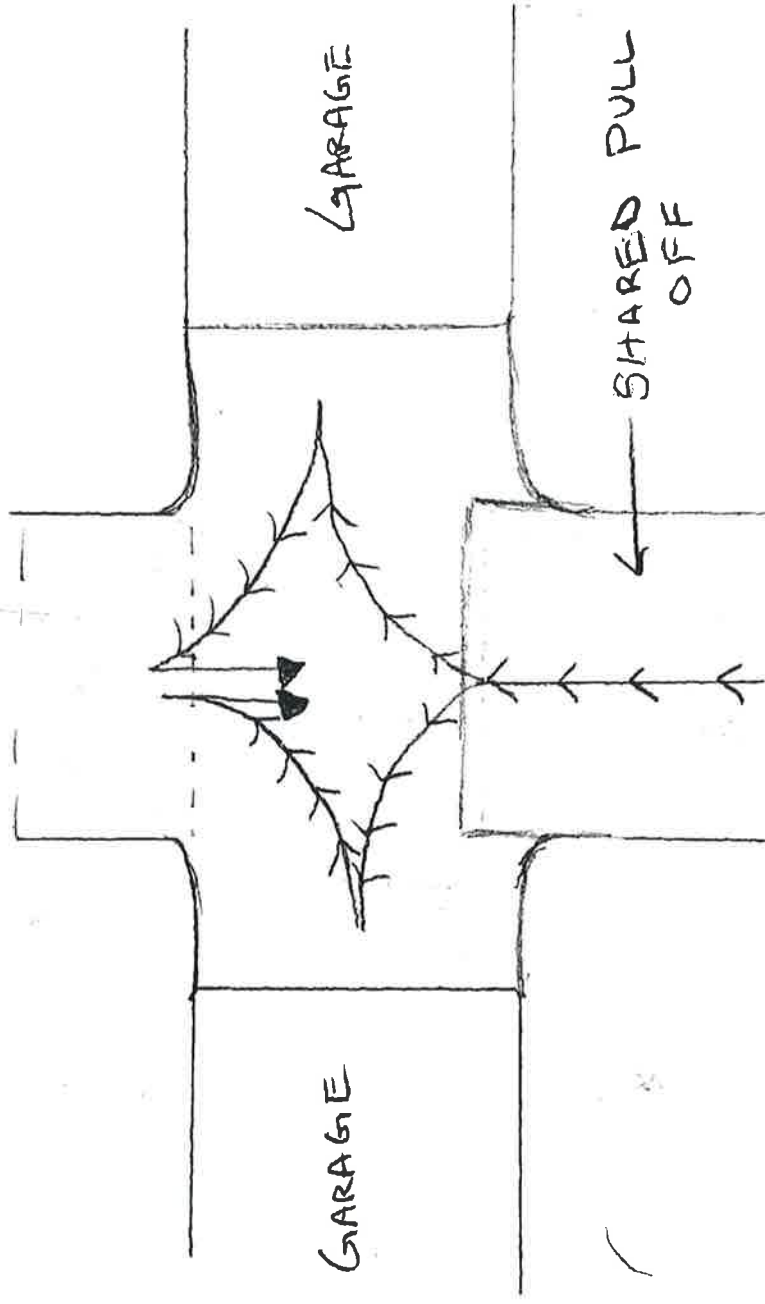
City of Pendleton|Community Development  
500 SW Dorion Avenue Pendleton, OR 97801  
Office: 541-966-0204 Fax: 541-966-0251

[www.pendleton.or.us](http://www.pendleton.or.us)

*"Working every day to be the premier city in Eastern Oregon"*



# Lots 3-8 SHARED DRIVEWAY TURN-AROUND



SW TUTUICCA CREEK RD

DATE	
REVISED	
DATE	
REVISED	
DATE	
REVISED	

05  
DATE  
SCALE  
VERT. SCALE  
HORIZ. SCALE

**ACH ENGINEERING P.S.**  
2404 STAELINE ROAD WALLA WALLA, WASHINGTON 98901  
509 386-3072

DATE: 6/12/22  
DESIGNED BY: ACH  
DRAWN BY: ACH  
CHECKED BY: ACH

JOB #22-800

**NAME**  
PRELIMINARY PLAT SKETCH

DRAWING  
SHEET 1  
OF 1

SUNRIDGE MIDDLE SCHOOL

**DEVELOPER:**  
BEREK BARFUSS  
43514 COLONIAL LANE  
PENLETON, OR, 97807  
(541) 969-4510

**ENGINEERING FIRM:**  
ACH ENGINEERING  
2404 STAELINE ROAD  
WALLA WALLA, WA 99362  
(509) 386-3072

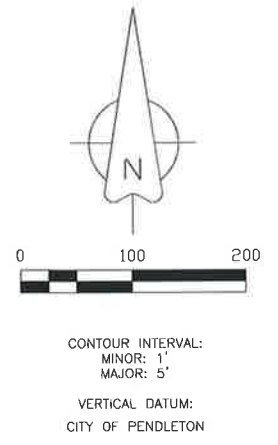


NAME

SLOPE GRADES OVER 20%

~~PROPOSED SUBDIVISION - OPTION B~~

A SUBDIVISION OF PARCEL 2, PARTITION PLAT 2007-01, CITY OF PENDLETON, UMATILLA COUNTY, OR



**LEGEND**  
 SLOPES 20% OR GREATER

SLOPE REPORT WED MAY 18 20:37:17 2022

SURFACE FILE: E:\MK22-04 BARFUSS SUBDIVISION\EG SURFACE.TIN  
 AVERAGE SLOPE: 13.1%  
 MINIMUM SLOPE: 0.3% AT 46392.4,44288.7  
 MAXIMUM SLOPE: 16136.9% AT 46529.2,44059.2

ZONE	RANGE	HORIZONTAL SURFACE AREA S.F.	SURFACE ACRES	SLOPE SURFACE AREA S.F.	ACRES	% OF TOTAL	AVERAGE SLOPE
1	20.00%	772,631.0	17.737	776,463.8	17.825	85.1	9.1%
2	40.00%	97,707.7	2.243	101,324.8	2.326	10.8	26.9%
3	60.00%	28,824.1	0.662	32,118.8	0.737	3.2	49.0%
4	80.00%	3,659.4	0.084	4,443.9	0.102	0.4	68.7%
5		5,329.0	0.122	8,118.1	0.186	0.6	110.9%
<b>TOTAL</b>		<b>908,151.2</b>	<b>20.848</b>	<b>922,469.4</b>	<b>21.177</b>		

TOTAL AREA FOR ZONES 2-5 (SLOPES 20% OR GREATER)  
 135,520.2 S.F. (3.11 ACRES)

REGISTERED  
**PROFESSIONAL  
 LAND SURVEYOR**  
**PRELIMINARY**  
 OREGON  
 JAN 12, 2016  
 MATTHEW PATRICK KENNY  
 89374PLS  
 RENEWS: 6-30-23

 <b>KENNY LAND SURVEYING</b>	P.O. BOX 447, HEPPNER, OR 97836 541-379-0242 www.kennylandsurveying.com			
	SUBDIVISION OF PARCEL 2, PARTITION PLAT 2007-01 - OPTION B LOCATED IN THE SW1/4 OF SECTION 15, TOWNSHIP 2 NORTH, RANGE 32 EAST, WILLAMETTE MERIDIAN, CITY OF PENDLETON, UMATILLA COUNTY, OR			
CLIENT: <b>BLUE RIDGE CONSTRUCTION, INC.</b>				
PROJECT: 22-04	DR: MPK	CH: MPK	DATE: MAY 19, 2022	SHEET 1 OF 1